

Union Calendar No. 151

109TH CONGRESS
1ST SESSION

H. R. 4241

[Report No. 109–276]

To provide for reconciliation pursuant to section 201(a) of the concurrent resolution on the budget for fiscal year 2006.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 7, 2005

Mr. NUSSLE, from the Committee on the Budget, reported the following bill; which was committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To provide for reconciliation pursuant to section 201(a) of the concurrent resolution on the budget for fiscal year 2006.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Deficit Reduction Act
5 of 2005”.

6 **SEC. 2. TABLE OF TITLES.**

7 The table of titles is as follows:

TITLE I—COMMITTEE ON AGRICULTURE

TITLE II—COMMITTEE ON EDUCATION AND THE WORKFORCE

TITLE III—COMMITTEE ON ENERGY AND COMMERCE

TITLE IV—COMMITTEE ON FINANCIAL SERVICES

TITLE V—COMMITTEE ON THE JUDICIARY

TITLE VI—COMMITTEE ON RESOURCES

TITLE VII—COMMITTEE ON TRANSPORTATION AND
INFRASTRUCTURE

TITLE VIII—COMMITTEE ON WAYS AND MEANS

TITLE I—COMMITTEE ON AGRICULTURE

SECTION 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the
“Agricultural Reconciliation Act of 2005”.

(b) TABLE OF CONTENTS.—The table of contents of
this title is as follows:

Sec. 1001. Short title; table of contents.

Subtitle A—Commodity Programs

Sec. 1101. Percentage reduction in amount of direct payments for covered commodities and peanuts.

Sec. 1102. Reduction in percentage of direct payment amount authorized to be paid in advance.

Sec. 1103. Cotton competitiveness provisions.

Subtitle B—Conservation

Sec. 1201. Limitations on use of Commodity Credit Corporation funds to carry out watershed rehabilitation program.

Sec. 1202. Conservation security program.

Sec. 1203. Limitations on use of Commodity Credit Corporation funds to carry out agricultural management assistance program.

Subtitle C—Energy

Sec. 1301. Termination of use of Commodity Credit Corporation funds to carry out renewable energy systems and energy efficiency improvements program.

Subtitle D—Rural Development

Sec. 1401. Enhanced access to broadband telecommunications services in rural areas.

Sec. 1402. Value-added agricultural product market development grants.

Sec. 1403. Rural business investment program.

Sec. 1404. Rural business strategic investment grants.

Sec. 1405. Rural firefighters and emergency personnel grants.

Subtitle E—Research

Sec. 1501. Initiative for Future Food and Agriculture Systems.

Subtitle F—Nutrition

Sec. 1601. Eligible households.

Sec. 1602. Availability of commodities for the emergency food assistance program.

Sec. 1603. Residency requirement.

Sec. 1604. Disaster food stamp program.

1 **Subtitle A—Commodity Programs**

2 **SEC. 1101. PERCENTAGE REDUCTION IN AMOUNT OF DI-** 3 **RECT PAYMENTS FOR COVERED COMMOD-** 4 **ITIES AND PEANUTS.**

5 (a) COVERED COMMODITIES.—Section 1103 of the
6 Farm Security and Rural Investment Act of 2002 (7
7 U.S.C. 7913) is amended—

8 (1) in subsection (c), by striking “The amount”
9 and inserting “Except as provided in subsection (e),
10 the amount”; and

11 (2) by adding at the end the following new sub-
12 section:

13 “(e) DIRECT PAYMENT AMOUNT REDUCTION.—Not-
14 withstanding subsection (c), for the 2006 and 2007 crop
15 years (and the 2008 and 2009 crop years if direct pay-
16 ments are provided under this section for those crop
17 years), the Secretary shall reduce the total amount of the

1 direct payment to be paid to the producers on a farm for
2 a covered commodity for the crop year concerned by an
3 amount equal to 1 percent of the direct payment amount
4 otherwise determined for that farm for that covered com-
5 modity for that crop year. No reduction shall be made
6 under the authority of this subsection if direct payments
7 are made for the 2010 or any subsequent crop year of
8 a covered commodity.”.

9 (b) PEANUTS.—Section 1303 of such Act (7 U.S.C.
10 7953) is amended—

11 (1) in subsection (d), by striking “The amount”
12 and inserting “Except as provided in subsection (f),
13 the amount”; and

14 (2) by adding at the end the following new sub-
15 section:

16 “(f) DIRECT PAYMENT AMOUNT REDUCTION.—Not-
17 withstanding subsection (d), for the 2006 and 2007 crops
18 of peanuts (and the 2008 and 2009 crops of peanuts if
19 direct payments are provided under this section for those
20 crops), the Secretary shall reduce the total amount of the
21 direct payment to be paid to the producers on a farm for
22 that crop of peanuts by an amount equal to 1 percent of
23 the direct payment amount otherwise determined for that
24 farm for that crop of peanuts. No reduction shall be made
25 under the authority of this subsection if direct payments

1 are made for the 2010 or any subsequent crop of pea-
 2 nuts.”.

3 **SEC. 1102. REDUCTION IN PERCENTAGE OF DIRECT PAY-**
 4 **MENT AMOUNT AUTHORIZED TO BE PAID IN**
 5 **ADVANCE.**

6 (a) COVERED COMMODITIES.—Section 1103(d)(2) of
 7 the Farm Security and Rural Investment Act of 2002 (7
 8 U.S.C. 7913(d)(2)) is amended in the first sentence by
 9 striking “2007 crop years” and inserting “2005 crop
 10 years and up to 40 percent of the direct payment for a
 11 covered commodity for each of the 2006 and 2007 crop
 12 years”.

13 (b) PEANUTS.—Section 1303(e)(2) of such Act (7
 14 U.S.C. 7953(e)(2)) is amended in the first sentence by
 15 striking “2007 crop years” and inserting “2005 crop
 16 years and up to 40 percent of the direct payment for each
 17 of the 2006 and 2007 crop years”.

18 **SEC. 1103. COTTON COMPETITIVENESS PROVISIONS.**

19 (a) REPEAL OF AUTHORITY TO ISSUE COTTON USER
 20 MARKETING CERTIFICATES.—Section 1207 of the Farm
 21 Security and Rural Investment Act of 2002 (7 U.S.C.
 22 7937) is amended—

23 (1) by striking the section heading and insert-
 24 ing the following: “**UPLAND COTTON IMPORT**
 25 **QUOTAS.**”;

1 (2) by striking subsection (a);

2 (3) by redesignating subsections (b) and (c) as
3 subsections (a) and (b), respectively;

4 (4) in subsection (a), as so redesignated—

5 (A) in paragraph (1)—

6 (i) in subparagraph (B), by striking “,
7 adjusted for the value of any certificate
8 issued under subsection (a),”; and

9 (ii) in subparagraph (C), by striking
10 “, for the value of any certificates issued
11 under subsection (a)”; and

12 (B) in paragraph (4), by striking “sub-
13 section (c)” and inserting “subsection (b)”; and

14 (5) in subsection (b)(2), as so redesignated, by
15 striking “subsection (b)” and inserting “subsection
16 (a)”.

17 (b) CONFORMING AMENDMENT.—Section 136 of the
18 Federal Agriculture Improvement and Reform Act of 1996
19 (7 U.S.C. 7236) is repealed.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section take effect on August 1, 2006.

Subtitle B—Conservation

SEC. 1201. LIMITATIONS ON USE OF COMMODITY CREDIT CORPORATION FUNDS TO CARRY OUT WATERSHED REHABILITATION PROGRAM.

(a) FISCAL YEAR 2007 FUNDING.—Subparagraph (E) of section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)) is amended by striking “\$65,000,000” and inserting “\$50,000,000”.

(b) TERMINATION OF MULTI-YEAR AVAILABILITY OF FUNDS.—Such section is further amended by striking “, to remain available until expended” in the matter preceding subparagraph (A).

(c) RESCISSION OF UNOBLIGATED PRIOR-YEAR FUNDS.—Funds previously made available under such section for a fiscal year and unobligated as of September 30, 2006, are hereby rescinded effective on that date.

SEC. 1202. CONSERVATION SECURITY PROGRAM.

(a) FUNDING.—Section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended—

(1) in the matter before paragraph (1), by striking “For” and inserting “Except as otherwise provided in this subsection, for”; and

(2) in paragraph (3), by striking “not more than \$6,037,000,000” and all that follows through “2014.” and inserting the following:

1 “not more than—

2 “(A) \$2,213,000,000 for the period of fis-
3 cal years 2006 through 2010; and

4 “(B) \$5,729,000,000 for the period of fis-
5 cal years 2006 through 2015.”.

6 (b) DURATION.—Section 1238A(a) of such Act (16
7 U.S.C. 3838a(a)) is amended by striking “2007” and in-
8 serting “2011”.

9 **SEC. 1203. LIMITATIONS ON USE OF COMMODITY CREDIT**
10 **CORPORATION FUNDS TO CARRY OUT AGRI-**
11 **CULTURAL MANAGEMENT ASSISTANCE PRO-**
12 **GRAM.**

13 Section 524(b)(4)(B) of the Federal Crop Insurance
14 Act (7 U.S.C. 1524(b)(4)(B)) is amended—

15 (1) in clause (i), by inserting before the period
16 at the end the following: “, except fiscal years 2007
17 through 2010”; and

18 (2) in clauses (ii) and (iii), by striking “2007”
19 both places it appears and inserting “2006”.

Subtitle C—Energy

**SEC. 1301. TERMINATION OF USE OF COMMODITY CREDIT
CORPORATION FUNDS TO CARRY OUT RE-
NEWABLE ENERGY SYSTEMS AND ENERGY
EFFICIENCY IMPROVEMENTS PROGRAM.**

Section 9006(f) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106(f)) is amended by striking “2007” and inserting “2006”.

Subtitle D—Rural Development

**SEC. 1401. ENHANCED ACCESS TO BROADBAND TELE-
COMMUNICATIONS SERVICES IN RURAL
AREAS.**

(a) TERMINATION OF FISCAL YEAR 2007 FUNDING.—Subparagraph (B) of section 601(j)(1) of the Rural Electrification Act of 1936 (7 U.S.C. 950bb(j)(1)) is amended by striking “for each of fiscal years 2006 and 2007” and inserting “for fiscal year 2006”.

(b) TERMINATION OF MULTI-YEAR AVAILABILITY OF FUNDS.—Such section is further amended by striking “, to remain available until expended” both places it appears.

(c) RESCISSION OF UNOBLIGATED PRIOR-YEAR FUNDS.—Funds previously made available under such section for a fiscal year and unobligated as of September 30, 2006, are hereby rescinded effective on that date.

1 **SEC. 1402. VALUE-ADDED AGRICULTURAL PRODUCT MAR-**
 2 **KET DEVELOPMENT GRANTS.**

3 (a) TERMINATION OF FISCAL YEAR 2007 FUND-
 4 ING.—Section 231(b)(4) of the Agricultural Risk Protec-
 5 tion Act of 2000 (Public Law 106–224; 7 U.S.C. 1621
 6 note) is amended by striking “October 1, 2006” and in-
 7 serting “October 1, 2005”.

8 (b) TERMINATION OF MULTI-YEAR AVAILABILITY OF
 9 FUNDS.—Such section is further amended by striking “,
 10 to remain available until expended”.

11 (c) RESCISSION OF UNOBLIGATED PRIOR-YEAR
 12 FUNDS.—Funds previously made available under such
 13 section for a fiscal year and unobligated as of September
 14 30, 2006, are hereby rescinded effective on that date.

15 **SEC. 1403. RURAL BUSINESS INVESTMENT PROGRAM.**

16 (a) TERMINATION OF FISCAL YEAR 2007 AND SUB-
 17 SEQUENT FUNDING.—Subsection (a)(1) of section 384S
 18 of the Consolidated Farm and Rural Development Act (7
 19 U.S.C. 2009cc–18) is amended by inserting after “nec-
 20 essary” the following: “through fiscal year 2006”.

21 (b) TERMINATION OF MULTI-YEAR AVAILABILITY OF
 22 FUNDS.—Such section is further amended—

23 (1) by striking “(a) IN GENERAL.—”; and

24 (2) by striking subsection (b).

25 (c) RESCISSION OF UNOBLIGATED PRIOR-YEAR
 26 FUNDS.—Funds previously made available under such

1 section and unobligated as of September 30, 2006, are
2 hereby rescinded effective on that date.

3 **SEC. 1404. RURAL BUSINESS STRATEGIC INVESTMENT**
4 **GRANTS.**

5 (a) **TERMINATION OF MULTI-YEAR AVAILABILITY OF**
6 **FUNDS.**—Subsection (a) of section 385E of the Consoli-
7 dated Farm and Rural Development Act (7 U.S.C.
8 2009dd–4) is amended by striking “, to remain available
9 until expended,”.

10 (b) **RESCISSION OF UNOBLIGATED PRIOR-YEAR**
11 **FUNDS.**—Funds previously made available under such
12 section and unobligated as of September 30, 2006, are
13 hereby rescinded effective on that date.

14 **SEC. 1405. RURAL FIREFIGHTERS AND EMERGENCY PER-**
15 **SONNEL GRANTS.**

16 (a) **TERMINATION OF FISCAL YEAR 2007 FUND-**
17 **ING.**—Section 6405(c) of the Farm Security and Rural In-
18 vestment Act of 2002 (7 U.S.C. 2655(c)) is amended by
19 striking “2007” and inserting “2006”.

20 (b) **TERMINATION OF MULTI-YEAR AVAILABILITY OF**
21 **FUNDS.**—Such section is further amended by striking “,
22 to remain available until expended”.

23 (c) **RESCISSION OF UNOBLIGATED PRIOR-YEAR**
24 **FUNDS.**—Funds previously made available under such

1 section for a fiscal year and unobligated as of September
 2 30, 2006, are hereby rescinded effective on that date.

3 **Subtitle E—Research**

4 **SEC. 1501. INITIATIVE FOR FUTURE FOOD AND AGRI-** 5 **CULTURE SYSTEMS.**

6 (a) TERMINATION OF FISCAL YEAR 2007, 2008, AND
 7 2009 TRANSFERS.—Subsection (b)(3)(D) of section 401
 8 of the Agricultural Research, Extension, and Education
 9 Reform Act of 1998 (7 U.S.C. 7621) is amended by strik-
 10 ing “2006” and inserting “2009”.

11 (b) TERMINATION OF MULTI-YEAR AVAILABILITY OF
 12 FISCAL YEAR 2006 FUNDS.—Paragraph (6) of subsection
 13 (f) of such section is amended to read as follows:

14 “(6) AVAILABILITY OF FUNDS.—

15 “(A) TWO-YEAR AVAILABILITY.—Except as
 16 provided in subparagraph (B), funds for grants
 17 under this section shall be available to the Sec-
 18 retary for obligation for a 2-year period begin-
 19 ning on the date of the transfer of the funds
 20 under subsection (b).

21 “(B) EXCEPTION FOR FISCAL YEAR 2006
 22 TRANSFER.—In the case of the funds required
 23 to be transferred by subsection (b)(3)(C), the
 24 funds shall be available to the Secretary for ob-

1 ligation for the 1-year period beginning on Oc-
 2 tober 1, 2005.”.

3 **Subtitle F—Nutrition**

4 **SEC. 1601. ELIGIBLE HOUSEHOLDS.**

5 (a) ELIGIBLE HOUSEHOLDS.—Section 5 of the Food
 6 Stamp Act of 1977 (7 U.S.C. 2014) is amended—

7 (1) in the 2d sentence of subsection (a); and

8 (2) in subsection (j);

9 by striking “receives benefits” each place it appears and
 10 inserting “in fiscal years 2006 through 2010 receives cash
 11 assistance, and in any other fiscal year receives benefits,”.

12 (b) EXTENSIONS.—The Food Stamp Act of 1977 (7
 13 U.S.C. 2011 et seq.) is amended in—

14 (1) section 11(t)(1);

15 (2) section 16—

16 (A) in subparagraphs (A)(vii) and (E)(i) of
 17 subsection (h)(1); and

18 (B) in subparagraphs (A) and (B)(ii) of
 19 subsection (k)(3);

20 (3) section 17(b)(1)(B)(vi);

21 (4) section 18(a); and

22 (5) section 19(a)(2)(A)(ii);

23 by striking “2007” each place it appears and inserting
 24 “2011”.

1 **SEC. 1602. AVAILABILITY OF COMMODITIES FOR THE EMER-**
2 **GENCY FOOD ASSISTANCE PROGRAM.**

3 Section 27(a) of the Food Stamp Act of 1977 (7
4 U.S.C. 2036(a)) is amended—

5 (1) by striking “2007,” and inserting “2005
6 and for each of the fiscal years 2007 through 2011”;

7 (2) by inserting “, and for fiscal year 2006 the
8 Secretary shall purchase \$152,000,000,” before “of
9 a variety”; and

10 (3) by adding at the end the following:

11 “Of the funds used to purchase commodities in accordance
12 with this subsection for fiscal year 2006, \$12,000,000
13 shall be used to purchase commodities for distribution to
14 States that received a Presidential designation of a major
15 disaster under the Robert T. Stafford Disaster Relief and
16 Emergency Assistance Act (42 U.S.C. 5121–5206) as a
17 result of Hurricane Katrina or Hurricane Rita and States
18 contiguous to those States.”.

19 **SEC. 1603. RESIDENCY REQUIREMENT.**

20 Section 402(a)(2)(L) of the Personal Responsibility
21 and Work Opportunity Reconciliation Act of 1996 (8
22 U.S.C. 1612(a)(2)(L)) is amended by striking “5 years
23 or more” and inserting “7 years or more effective until
24 September 30, 2010, and for a period of 5 years or more
25 effective beginning on October 1, 2010,”.

1 **SEC. 1604. DISASTER FOOD STAMP PROGRAM.**

2 Notwithstanding section 16(a) of the Food Stamp
 3 Act of 1977 (7 U.S.C. 2025(a)), the Secretary of Agri-
 4 culture is authorized, at the discretion of the Secretary,
 5 to pay to State agencies 100 percent of the administrative
 6 costs incurred in the certification of, and issuance of bene-
 7 fits to, applicant households that become eligible to receive
 8 food stamp benefits under the disaster food stamp pro-
 9 gram eligibility standards in effect during the Presi-
 10 dentially declared emergency in response to Hurricane
 11 Katrina or Hurricane Rita.

12 **TITLE II—COMMITTEE ON EDU-**
 13 **CATION AND THE WORK-**
 14 **FORCE**

15 **SECTION 2000. TABLE OF CONTENTS.**

16 The table of contents of this title is as follows:

TITLE II—COMMITTEE ON EDUCATION AND THE WORKFORCE

Sec. 2000. Table of contents.

Subtitle A—Welfare Reform

PART 1—SHORT TITLE; REFERENCES

Sec. 2001. Short title.

Sec. 2002. References.

PART 2—TANF

Sec. 2011. Universal engagement and family self-sufficiency plan requirements.

Sec. 2012. Work participation requirements.

Sec. 2013. Work-related performance improvement.

Sec. 2014. Report on coordination.

Sec. 2015. Fatherhood program.

Sec. 2016. State option to make TANF programs mandatory partners with
 one-stop employment training centers.

Sec. 2017. Sense of the Congress.

Sec. 2018. Prohibition on offshoring.

PART 3—CHILD CARE

Sec. 2021. Short title.

Sec. 2022. Goals.

Sec. 2023. Authorization of appropriations.

Sec. 2024. Application and plan.

Sec. 2025. Activities to improve the quality of child care.

Sec. 2026. Reports and audits.

Sec. 2027. Report by Secretary.

Sec. 2028. Definitions.

Sec. 2029. Waiver authority to expand the availability of services under Child Care and Development Block Grant Act of 1990.

PART 4—STATE AND LOCAL FLEXIBILITY

Sec. 2041. Program coordination demonstration projects.

PART 5—EFFECTIVE DATE

Sec. 2051. Effective date.

Subtitle B—Higher Education

Sec. 2101. Short title.

PART 1—AMENDMENTS TO THE HIGHER EDUCATION ACT OF 1965

Sec. 2111. References; effective date.

Sec. 2112. Modification of 50/50 Rule.

Sec. 2113. Reauthorization of Federal Family Education Loan Program.

Sec. 2114. Loan limits.

Sec. 2115. Interest rates and special allowances.

Sec. 2116. Additional loan terms and conditions.

Sec. 2117. Consolidation loan changes.

Sec. 2118. Deferment of student loans for military service.

Sec. 2119. Loan forgiveness for service in areas of national need.

Sec. 2120. Unsubsidized Stafford loans.

Sec. 2121. Elimination of termination dates from Taxpayer-Teacher Protection Act of 2004.

Sec. 2122. Loan fees from lenders.

Sec. 2123. Additional administrative provisions.

Sec. 2124. Funds for administrative expenses.

Sec. 2125. Significantly simplifying the student aid application process.

Sec. 2126. Additional need analysis amendments.

Sec. 2127. Definition of eligible program.

Sec. 2128. Distance education.

Sec. 2129. Student eligibility.

Sec. 2130. Institutional refunds.

Sec. 2131. College access initiative.

Sec. 2132. Cancellation of Student Loan Indebtedness For Survivors of Victims of the September 11, 2001, Attacks.

Sec. 2133. Independent evaluation of distance education programs.

Sec. 2134. Disbursement of student loans.

PART 2—HIGHER EDUCATION RELIEF

Sec. 2141. References.
 Sec. 2142. Waivers and modifications.
 Sec. 2143. Cancellation of institutional repayment by colleges and universities
 affected by a Gulf hurricane disaster.
 Sec. 2144. Cancellation of student loans for cancelled enrollment periods.
 Sec. 2145. Temporary deferment of student loan repayment.
 Sec. 2146. No affect on grant and loan limits.
 Sec. 2147. Teacher loan relief.
 Sec. 2148. Expanding information dissemination regarding eligibility for Pell
 Grants.
 Sec. 2149. Procedures.
 Sec. 2150. Termination of authority.
 Sec. 2151. Definitions.

Subtitle C—Pensions

Sec. 2201. Increases in PBGC premiums.

1 **Subtitle A—Welfare Reform**

2 **PART 1—SHORT TITLE; REFERENCES**

3 **SEC. 2001. SHORT TITLE.**

4 This subtitle may be cited as the “Personal Responsi-
 5 bility, Work, and Family Promotion Act of 2005”.

6 **SEC. 2002. REFERENCES.**

7 Except as otherwise expressly provided, wherever in
 8 this subtitle an amendment or repeal is expressed in terms
 9 of an amendment to, or repeal of, a section or other provi-
 10 sion, the amendment or repeal shall be considered to be
 11 made to a section or other provision of the Social Security
 12 Act.

13 **PART 2—TANF**

14 **SEC. 2011. UNIVERSAL ENGAGEMENT AND FAMILY SELF-** 15 **SUFFICIENCY PLAN REQUIREMENTS.**

16 (a) MODIFICATION OF STATE PLAN REQUIRE-
 17 MENTS.—Section 402(a)(1)(A) (42 U.S.C. 602(a)(1)(A))

1 is amended by striking clauses (ii) and (iii) and inserting
2 the following:

3 “(ii) Require a parent or caretaker re-
4 ceiving assistance under the program to
5 engage in work or alternative self-suffi-
6 ciency activities (as defined by the State),
7 consistent with section 407(e)(2).

8 “(iii) Require families receiving assist-
9 ance under the program to engage in ac-
10 tivities in accordance with family self-suffi-
11 ciency plans developed pursuant to section
12 408(b).”.

13 (b) ESTABLISHMENT OF FAMILY SELF-SUFFICIENCY
14 PLANS.—

15 (1) IN GENERAL.—Section 408(b) (42 U.S.C.
16 608(b)) is amended to read as follows:

17 “(b) FAMILY SELF-SUFFICIENCY PLANS.—

18 “(1) IN GENERAL.—A State to which a grant
19 is made under section 403 shall—

20 “(A) assess, in the manner deemed appro-
21 priate by the State, the skills, prior work expe-
22 rience, and employability of each work-eligible
23 individual (as defined in section 407(b)(2)(C))
24 receiving assistance under the State program
25 funded under this part;

1 “(B) establish for each family that in-
2 cludes such an individual, in consultation as the
3 State deems appropriate with the individual, a
4 self-sufficiency plan that specifies appropriate
5 activities described in the State plan submitted
6 pursuant to section 402, including direct work
7 activities as appropriate designed to assist the
8 family in achieving their maximum degree of
9 self-sufficiency, and that provides for the ongo-
10 ing participation of the individual in the activi-
11 ties;

12 “(C) require, at a minimum, each such in-
13 dividual to participate in activities in accord-
14 ance with the self-sufficiency plan;

15 “(D) monitor the participation of each
16 such individual in the activities specified in the
17 self-sufficiency plan, and regularly review the
18 progress of the family toward self-sufficiency;

19 “(E) upon such a review, revise the self-
20 sufficiency plan and activities as the State
21 deems appropriate.

22 “(2) TIMING.—The State shall comply with
23 paragraph (1) with respect to a family—

24 “(A) in the case of a family that, as of Oc-
25 tober 1, 2005, is not receiving assistance from

1 the State program funded under this part, not
2 later than 60 days after the family first receives
3 assistance on the basis of the most recent appli-
4 cation for the assistance; or

5 “(B) in the case of a family that, as of
6 such date, is receiving the assistance, not later
7 than 12 months after the date of enactment of
8 this subsection.

9 “(3) STATE DISCRETION.—A State shall have
10 sole discretion, consistent with section 407, to define
11 and design activities for families for purposes of this
12 subsection, to develop methods for monitoring and
13 reviewing progress pursuant to this subsection, and
14 to make modifications to the plan as the State
15 deems appropriate to assist the individual in increas-
16 ing their degree of self-sufficiency.

17 “(4) RULE OF INTERPRETATION.—Nothing in
18 this part shall preclude a State from--

19 “(A) requiring participation in work and
20 any other activities the State deems appropriate
21 for helping families achieve self-sufficiency and
22 improving child well-being; or

23 “(B) using job search or other appropriate
24 job readiness or work activities to assess the

1 employability of individuals and to determine
 2 appropriate future engagement activities.”.

3 (2) PENALTY FOR FAILURE TO ESTABLISH
 4 FAMILY SELF-SUFFICIENCY PLAN.—Section
 5 409(a)(3) (42 U.S.C. 609(a)(3)) is amended—

6 (A) in the paragraph heading, by inserting
 7 “OR ESTABLISH FAMILY SELF-SUFFICIENCY
 8 PLAN” after “RATES”; and

9 (B) in subparagraph (A), by inserting “or
 10 408(b)” after “407(a)”.

11 **SEC. 2012. WORK PARTICIPATION REQUIREMENTS.**

12 (a) ELIMINATION OF SEPARATE PARTICIPATION
 13 RATE REQUIREMENTS FOR 2-PARENT FAMILIES.—

14 (1) Section 407 (42 U.S.C. 607) is amended in
 15 each of subsections (a) and (b) by striking para-
 16 graph (2).

17 (2) Section 407(b)(4) (42 U.S.C. 607(b)(4)) is
 18 amended by striking “paragraphs (1)(B) and
 19 (2)(B)” and inserting “paragraph (1)(B)”.

20 (3) Section 407(c)(1) (42 U.S.C. 607(c)(1)) is
 21 amended by striking subparagraph (B).

22 (4) Section 407(c)(2)(D) (42 U.S.C.
 23 607(c)(2)(D)) is amended by striking “paragraphs
 24 (1)(B)(i) and (2)(B) of subsection (b)” and inserting
 25 “subsection (b)(1)(B)(i)”.

1 (b) WORK PARTICIPATION REQUIREMENTS.—Section
2 407 (42 U.S.C. 607) is amended by striking all that pre-
3 cedes subsection (b)(3) and inserting the following:

4 **“SEC. 407. WORK PARTICIPATION REQUIREMENTS.**

5 “(a) PARTICIPATION RATE REQUIREMENTS.—A
6 State to which a grant is made under section 403 for a
7 fiscal year shall achieve a minimum participation rate
8 equal to not less than—

9 “(1) 50 percent for fiscal year 2006;

10 “(2) 55 percent for fiscal year 2007;

11 “(3) 60 percent for fiscal year 2008;

12 “(4) 65 percent for fiscal year 2009; and

13 “(5) 70 percent for fiscal year 2010 and each
14 succeeding fiscal year.

15 “(b) CALCULATION OF PARTICIPATION RATES.—

16 “(1) AVERAGE MONTHLY RATE.—For purposes
17 of subsection (a), the participation rate of a State
18 for a fiscal year is the average of the participation
19 rates of the State for each month in the fiscal year.

20 “(2) MONTHLY PARTICIPATION RATES; INCOR-
21 PORATION OF 40-HOUR WORK WEEK STANDARD.—

22 “(A) IN GENERAL.—For purposes of para-
23 graph (1), the participation rate of a State for
24 a month is—

1 “(i) the total number of countable
2 hours (as defined in subsection (c)) with
3 respect to the counted families for the
4 State for the month; divided by

5 “(ii) 160 multiplied by the number of
6 counted families for the State for the
7 month.

8 “(B) COUNTED FAMILIES DEFINED.—

9 “(i) IN GENERAL.—In subparagraph
10 (A), the term ‘counted family’ means, with
11 respect to a State and a month, a family
12 that includes a work-eligible individual and
13 that receives assistance in the month under
14 the State program funded under this part,
15 subject to clause (ii).

16 “(ii) STATE OPTION TO EXCLUDE
17 CERTAIN FAMILIES.—At the option of a
18 State, the term ‘counted family’ shall not
19 include—

20 “(I) a family in the first month
21 for which the family receives assist-
22 ance from a State program funded
23 under this part on the basis of the
24 most recent application for such as-
25 sistance;

1 “(II) on a case-by-case basis, a
2 family in which the youngest child has
3 not attained 12 months of age; or

4 “(III) a family that is subject to
5 a sanction under this part or part D,
6 but that has not been subject to such
7 a sanction for more than 3 months
8 (whether or not consecutive) in the
9 preceding 12-month period.

10 “(iii) STATE OPTION TO INCLUDE IN-
11 DIVIDUALS RECEIVING ASSISTANCE UNDER
12 A TRIBAL FAMILY ASSISTANCE PLAN OR
13 TRIBAL WORK PROGRAM.—At the option of
14 a State, the term ‘counted family’ may in-
15 clude families in the State that are receiv-
16 ing assistance under a tribal family assist-
17 ance plan approved under section 412 or
18 under a tribal work program to which
19 funds are provided under this part.

20 “(C) WORK-ELIGIBLE INDIVIDUAL DE-
21 FINED.—In this section, the term ‘work-eligible
22 individual’ means an individual—

23 “(i) who is married or a single head
24 of household; and

1 “(ii) whose needs are (or, but for
2 sanctions under this part or part D, would
3 be) included in determining the amount of
4 cash assistance to be provided to the fam-
5 ily under the State program funded under
6 this part.”.

7 (c) RECALIBRATION OF CASELOAD REDUCTION
8 CREDIT.—

9 (1) IN GENERAL.—Section 407(b)(3)(A)(ii) (42
10 U.S.C. 607(b)(3)(A)(ii)) is amended to read as fol-
11 lows:

12 “(ii) the average monthly number of
13 families that received assistance under the
14 State program funded under this part dur-
15 ing the base year.”.

16 (2) CONFORMING AMENDMENT.—Section
17 407(b)(3)(B) (42 U.S.C. 607(b)(3)(B)) is amended
18 by striking “and eligibility criteria” and all that fol-
19 lows through the close parenthesis and inserting
20 “and the eligibility criteria in effect during the then
21 applicable base year”.

22 (3) BASE YEAR DEFINED.—Section 407(b)(3)
23 (42 U.S.C. 607(b)(3)) is amended by adding at the
24 end the following:

“(C) BASE YEAR DEFINED.—In this paragraph, the term ‘base year’ means, with respect to a fiscal year—

“(i) if the fiscal year is fiscal year 2006, fiscal year 1996;

“(ii) if the fiscal year is fiscal year 2007, fiscal year 1998;

“(iii) if the fiscal year is fiscal year 2008, fiscal year 2001; or

“(iv) if the fiscal year is fiscal year 2009 or any succeeding fiscal year, the then 4th preceding fiscal year.”.

(d) SUPERACHIEVER CREDIT.—Section 407(b) (42 U.S.C. 607(b)) is amended by striking paragraphs (4) and (5) and inserting the following:

“(4) SUPERACHIEVER CREDIT.—

“(A) IN GENERAL.—The participation rate, determined under paragraphs (1) and (2) of this subsection, of a superachiever State for a fiscal year shall be increased by the lesser of—

“(i) the amount (if any) of the superachiever credit applicable to the State; or

“(ii) the number of percentage points (if any) by which the minimum participa-

tion rate required by subsection (a) for the
fiscal year exceeds 50 percent.

“(B) SUPERACHIEVER STATE.—For purposes of subparagraph (A), a State is a superachiever State if the State caseload for fiscal year 2001 has declined by at least 60 percent from the State caseload for fiscal year 1995.

“(C) AMOUNT OF CREDIT.—The superachiever credit applicable to a State is the number of percentage points (if any) by which the decline referred to in subparagraph (B) exceeds 60 percent.

“(D) DEFINITIONS.—In this paragraph:

“(i) STATE CASELOAD FOR FISCAL YEAR 2001.—The term ‘State caseload for fiscal year 2001’ means the average monthly number of families that received assistance during fiscal year 2001 under the State program funded under this part.

“(ii) STATE CASELOAD FOR FISCAL YEAR 1995.—The term ‘State caseload for fiscal year 1995’ means the average monthly number of families that received aid under the State plan approved under

1 part A (as in effect on September 30,
2 1995) during fiscal year 1995.”.

3 (e) COUNTABLE HOURS.—Section 407 (42 U.S.C.
4 607) is amended by striking subsections (c) and (d) and
5 inserting the following:

6 “(c) COUNTABLE HOURS.—

7 “(1) DEFINITION.—In subsection (b)(2), the
8 term ‘countable hours’ means, with respect to a fam-
9 ily for a month, the total number of hours in the
10 month in which any member of the family who is a
11 work-eligible individual is engaged in a direct work
12 activity or other activities specified by the State (ex-
13 cluding an activity that does not address a purpose
14 specified in section 401(a)), subject to the other pro-
15 visions of this subsection.

16 “(2) LIMITATIONS.—Subject to such regula-
17 tions as the Secretary may prescribe:

18 “(A) MINIMUM WEEKLY AVERAGE OF 24
19 HOURS OF DIRECT WORK ACTIVITIES RE-
20 QUIRED.—If the work-eligible individuals in a
21 family are engaged in a direct work activity for
22 an average total of fewer than 24 hours per
23 week in a month, then the number of countable
24 hours with respect to the family for the month
25 shall be zero.

1 “(B) MAXIMUM WEEKLY AVERAGE OF 16
2 HOURS OF OTHER ACTIVITIES.—An average of
3 not more than 16 hours per week of activities
4 specified by the State (subject to the exclusion
5 described in paragraph (1)) may be considered
6 countable hours in a month with respect to a
7 family.

8 “(3) SPECIAL RULES.—For purposes of para-
9 graph (1):

10 “(A) PARTICIPATION IN QUALIFIED AC-
11 TIVITIES.—

12 “(i) IN GENERAL.—If, with the ap-
13 proval of the State, the work-eligible indi-
14 viduals in a family are engaged in 1 or
15 more qualified activities for an average
16 total of at least 24 hours per week in a
17 month, then all such engagement in the
18 month shall be considered engagement in a
19 direct work activity, subject to clause (iii).

20 “(ii) QUALIFIED ACTIVITY DE-
21 FINED.—The term ‘qualified activity’
22 means an activity specified by the State
23 (subject to the exclusion described in para-
24 graph (1)) that meets such standards and

1 criteria as the State may specify, includ-
2 ing—

3 “(I) substance abuse counseling
4 or treatment;

5 “(II) rehabilitation treatment
6 and services;

7 “(III) work-related education or
8 training directed at enabling the fam-
9 ily member to work;

10 “(IV) job search or job readiness
11 assistance; and

12 “(V) any other activity that ad-
13 dresses a purpose specified in section
14 401(a).

15 “(iii) LIMITATION.—

16 “(I) IN GENERAL.—Except as
17 provided in subclause (II), clause (i)
18 shall not apply to a family for more
19 than 3 months in any period of 24
20 consecutive months.

21 “(II) SPECIAL RULE APPLICABLE
22 TO EDUCATION AND TRAINING.—A
23 State may, on a case-by-case basis,
24 apply clause (i) to a work-eligible indi-
25 vidual so that participation by the in-

1 dividual in education or training, if
2 needed to permit the individual to
3 complete a certificate program or
4 other work-related education or train-
5 ing directed at enabling the individual
6 to fill a known job need in a local
7 area, may be considered countable
8 hours with respect to the family of the
9 individual for not more than 4 months
10 in any period of 24 consecutive
11 months.

12 “(B) SCHOOL ATTENDANCE BY TEEN
13 HEAD OF HOUSEHOLD.—The work-eligible
14 members of a family shall be considered to be
15 engaged in a direct work activity for an average
16 of 40 hours per week in a month if the family
17 includes an individual who is married, or is a
18 single head of household, who has not attained
19 20 years of age, and the individual—

20 “(i) maintains satisfactory attendance
21 at secondary school or the equivalent in
22 the month; or

23 “(ii) participates in education directly
24 related to employment for an average of at
25 least 20 hours per week in the month.

1 “(C) PARENTAL PARTICIPATION IN
 2 SCHOOLS.—Each work-eligible individual in a
 3 family shall make verified visits at least twice
 4 per school year to the school of each of the indi-
 5 vidual’s minor dependent children required to
 6 attend school under the law of the State in
 7 which the minor children reside, during the pe-
 8 riod in which the family receives assistance
 9 under the program funded under this part.
 10 Hours spent in such activity may be specified
 11 by the State as countable hours for purposes of
 12 paragraph (2)(B).

13 “(d) DIRECT WORK ACTIVITY.—In this section, the
 14 term ‘direct work activity’ means—

- 15 “(1) unsubsidized employment;
- 16 “(2) subsidized private sector employment;
- 17 “(3) subsidized public sector employment;
- 18 “(4) on-the-job training;
- 19 “(5) supervised work experience; or
- 20 “(6) supervised community service.”.

21 (f) PENALTIES AGAINST INDIVIDUALS.—Section
 22 407(e)(1) (42 U.S.C. 607(e)(1)) is amended to read as
 23 follows:

24 “(1) REDUCTION OR TERMINATION OF ASSIST-
 25 ANCE.—

1 “(A) IN GENERAL.—Except as provided in
2 paragraph (2), if an individual in a family re-
3 ceiving assistance under a State program fund-
4 ed under this part fails to engage in activities
5 required in accordance with this section, or
6 other activities required by the State under the
7 program, and the family does not otherwise en-
8 gage in activities in accordance with the self-
9 sufficiency plan established for the family pur-
10 suant to section 408(b), the State shall—

11 “(i) if the failure is partial or persists
12 for not more than 1 month—

13 “(I) reduce the amount of assist-
14 ance otherwise payable to the family
15 pro rata (or more, at the option of the
16 State) with respect to any period dur-
17 ing a month in which the failure oc-
18 curs; or

19 “(II) terminate all assistance to
20 the family, subject to such good cause
21 exceptions as the State may establish;
22 or

23 “(ii) if the failure is total and persists
24 for at least 2 consecutive months, termi-
25 nate all cash payments to the family in-

1 including qualified State expenditures (as de-
2 fined in section 409(a)(7)(B)(i)) for at
3 least 1 month and thereafter until the
4 State determines that the individual has
5 resumed full participation in the activities,
6 subject to such good cause exceptions as
7 the State may establish.

8 “(B) SPECIAL RULE.—

9 “(i) IN GENERAL.—In the event of a
10 conflict between a requirement of clause
11 (i)(II) or (ii) of subparagraph (A) and a
12 requirement of a State constitution, or of
13 a State statute that, before 1966, obligated
14 local government to provide assistance to
15 needy parents and children, the State con-
16 stitutional or statutory requirement shall
17 control.

18 “(ii) LIMITATION.—Clause (i) of this
19 subparagraph shall not apply after the 1-
20 year period that begins with the date of
21 the enactment of this subparagraph.”.

22 (g) CONFORMING AMENDMENTS.—

23 (1) Section 407(f) (42 U.S.C. 607(f)) is amend-
24 ed in each of paragraphs (1) and (2) by striking

1 “work activity described in subsection (d)” and in-
 2 serting “direct work activity”.

3 (2) The heading of section 409(a)(14) (42
 4 U.S.C. 609(a)(14)) is amended by inserting “OR RE-
 5 FUSING TO ENGAGE IN ACTIVITIES UNDER A FAMILY
 6 SELF-SUFFICIENCY PLAN” after “WORK”.

7 **SEC. 2013. WORK-RELATED PERFORMANCE IMPROVEMENT.**

8 (a) STATE PLANS.—Section 402(a)(1) (42 U.S.C.
 9 602(a)) is amended—

10 (1) in subparagraph (A), by adding at the end
 11 the following:

12 “(vii) The document shall—

13 “(I) describe how the State will
 14 pursue ending dependence of needy
 15 families on government benefits and
 16 reducing poverty by promoting job
 17 preparation and work;

18 “(II) include specific, numerical,
 19 and measurable performance objec-
 20 tives for accomplishing subclause (I);
 21 and

22 “(III) describe the methodology
 23 that the State will use to measure
 24 State performance in relation to each
 25 such objective.

1 “(viii) Describe any strategies and
2 programs the State may be undertaking to
3 address—

4 “(I) employment retention and
5 advancement for recipients of assist-
6 ance under the program, including
7 placement into high-demand jobs, and
8 whether the jobs are identified using
9 labor market information;

10 “(II) services for struggling and
11 noncompliant families, and for clients
12 with special problems; and

13 “(III) program integration, in-
14 cluding the extent to which employ-
15 ment and training services under the
16 program are provided through the
17 One-Stop delivery system created
18 under the Workforce Investment Act
19 of 1998, and the extent to which
20 former recipients of such assistance
21 have access to additional core, inten-
22 sive, or training services funded
23 through such Act.”; and

24 (2) in subparagraph (B), by striking clause (iv).

1 (b) REPORT ON ANNUAL PERFORMANCE IMPROVE-
2 MENT.—Section 411 (42 U.S.C. 611) is amended by add-
3 ing at the end the following:

4 “(c) ANNUAL REPORT ON PERFORMANCE IMPROVE-
5 MENT.—Beginning with fiscal year 2007, not later than
6 January 1 of each fiscal year, each eligible State shall sub-
7 mit to the Secretary a report on achievement and improve-
8 ment during the preceding fiscal year under the numerical
9 performance goals and measures under the State program
10 funded under this part with respect to the matter de-
11 scribed in section 402(a)(1)(A)(vii).”.

12 (c) ANNUAL RANKING OF STATES.—Section
13 413(d)(1) (42 U.S.C. 613(d)(1)) is amended by striking
14 “long-term private sector jobs,” and inserting “private
15 sector jobs, the success of the recipients in retaining em-
16 ployment, the ability of the recipients to increase their
17 wages,”.

18 (d) PERFORMANCE IMPROVEMENT.—Section 413 (42
19 U.S.C. 613) is amended by adding at the end the fol-
20 lowing:

21 “(k) PERFORMANCE IMPROVEMENT.—The Secretary,
22 in consultation with States, shall develop uniform perform-
23 ance measures designed to assess the degree of effective-
24 ness, and the degree of improvement, of State programs

1 funded under this part in accomplishing the work-related
2 purposes of this part.”.

3 **SEC. 2014. REPORT ON COORDINATION.**

4 Not later than 6 months after the date of the enact-
5 ment of this Act, the Secretary of Health and Human
6 Services and the Secretary of Labor shall jointly submit
7 a report to the Congress describing common or conflicting
8 data elements, definitions, performance measures, and re-
9 porting requirements in the Workforce Investment Act of
10 1998 and part A of title IV of the Social Security Act,
11 and, to the degree each Secretary deems appropriate, at
12 the discretion of either Secretary, any other program ad-
13 ministered by the respective Secretary, to allow greater co-
14 ordination between the welfare and workforce development
15 systems.

16 **SEC. 2015. FATHERHOOD PROGRAM.**

17 (a) SHORT TITLE.—This section may be cited as the
18 “Promotion and Support of Responsible Fatherhood and
19 Healthy Marriage Act of 2005”.

20 (b) FATHERHOOD PROGRAM.—

21 (1) IN GENERAL.—Title I of the Personal Re-
22 sponsibility and Work Opportunity Reconciliation
23 Act of 1996 (Public Law 104–193) is amended by
24 adding at the end the following:

1 **“SEC. 117. FATHERHOOD PROGRAM.**

2 “(a) IN GENERAL.—Title IV (42 U.S.C. 601–679b)
3 is amended by inserting after part B the following:

4 **‘PART C—FATHERHOOD PROGRAM**

5 **‘SEC. 441. FINDINGS AND PURPOSES.**

6 ‘(a) FINDINGS.—The Congress finds that there is
7 substantial evidence strongly indicating the urgent need
8 to promote and support involved, committed, and respon-
9 sible fatherhood, and to encourage and support healthy
10 marriages between parents raising children, including data
11 demonstrating the following:

12 ‘(1) In approximately 84 percent of cases where
13 a parent is absent, that parent is the father.

14 ‘(2) If current trends continue, half of all chil-
15 dren born today will live apart from one of their par-
16 ents, usually their father, at some point before they
17 turn 18.

18 ‘(3) Where families (whether intact or with a
19 parent absent) are living in poverty, a significant
20 factor is the father’s lack of job skills.

21 ‘(4) Committed and responsible fathering dur-
22 ing infancy and early childhood contributes to the
23 development of emotional security, curiosity, and
24 math and verbal skills.

25 ‘(5) An estimated 19,400,000 children (27 per-
26 cent) live apart from their biological father.

1 ‘(6) Forty percent of children under age 18 not
2 living with their biological father had not seen their
3 father even once in the last 12 months, according to
4 national survey data.

5 ‘(b) PURPOSES.—The purposes of this part are:

6 ‘(1) To provide for projects and activities by
7 public entities and by nonprofit community entities,
8 including religious organizations, designed to test
9 promising approaches to accomplishing the following
10 objectives:

11 ‘(A) Promoting responsible, caring, and ef-
12 fective parenting through counseling, men-
13 toring, and parenting education, dissemination
14 of educational materials and information on
15 parenting skills, encouragement of positive fa-
16 ther involvement, including the positive involve-
17 ment of nonresident fathers, and other meth-
18 ods.

19 ‘(B) Enhancing the abilities and commit-
20 ment of unemployed or low-income fathers to
21 provide material support for their families and
22 to avoid or leave welfare programs by assisting
23 them to take full advantage of education, job
24 training, and job search programs, to improve
25 work habits and work skills, to secure career

1 advancement by activities such as outreach and
2 information dissemination, coordination, as ap-
3 propriate, with employment services and job
4 training programs, including the One-Stop de-
5 livery system established under title I of the
6 Workforce Investment Act of 1998, encourage-
7 ment and support of timely payment of current
8 child support and regular payment toward past
9 due child support obligations in appropriate
10 cases, and other methods.

11 ‘(C) Improving fathers’ ability to effec-
12 tively manage family business affairs by means
13 such as education, counseling, and mentoring in
14 matters including household management,
15 budgeting, banking, and handling of financial
16 transactions, time management, and home
17 maintenance.

18 ‘(D) Encouraging and supporting healthy
19 marriages and married fatherhood through such
20 activities as premarital education, including the
21 use of premarital inventories, marriage prepara-
22 tion programs, skills-based marriage education
23 programs, marital therapy, couples counseling,
24 divorce education and reduction programs, di-
25 vorce mediation and counseling, relationship

1 skills enhancement programs, including those
2 designed to reduce child abuse and domestic vi-
3 olence, and dissemination of information about
4 the benefits of marriage for both parents and
5 children.

6 ‘(2) Through the projects and activities de-
7 scribed in paragraph (1), to improve outcomes for
8 children with respect to measures such as increased
9 family income and economic security, improved
10 school performance, better health, improved emo-
11 tional and behavioral stability and social adjustment,
12 and reduced risk of delinquency, crime, substance
13 abuse, child abuse and neglect, teen sexual activity,
14 and teen suicide.

15 ‘(3) To evaluate the effectiveness of various ap-
16 proaches and to disseminate findings concerning out-
17 comes and other information in order to encourage
18 and facilitate the replication of effective approaches
19 to accomplishing these objectives.

20 **‘SEC. 442. DEFINITIONS.**

21 ‘In this part, the terms “Indian tribe” and “tribal
22 organization” have the meanings given them in sub-
23 sections (e) and (l), respectively, of section 4 of the Indian
24 Self-Determination and Education Assistance Act.

1 **‘SEC. 443. COMPETITIVE GRANTS FOR SERVICE PROJECTS.**

2 ‘(a) IN GENERAL.—The Secretary may make grants
3 for fiscal years 2006 through 2010 to public and nonprofit
4 community entities, including religious organizations, and
5 to Indian tribes and tribal organizations, for demonstra-
6 tion service projects and activities designed to test the ef-
7 fectiveness of various approaches to accomplish the objec-
8 tives specified in section 441(b)(1).

9 ‘(b) ELIGIBILITY CRITERIA FOR FULL SERVICE
10 GRANTS.—In order to be eligible for a grant under this
11 section, except as specified in subsection (c), an entity
12 shall submit an application to the Secretary containing the
13 following:

14 ‘(1) PROJECT DESCRIPTION.—A statement in-
15 cluding—

16 ‘(A) a description of the project and how
17 it will be carried out, including the geographical
18 area to be covered and the number and charac-
19 teristics of clients to be served, and how it will
20 address each of the 4 objectives specified in sec-
21 tion 441(b)(1); and

22 ‘(B) a description of the methods to be
23 used by the entity or its contractor to assess
24 the extent to which the project was successful
25 in accomplishing its specific objectives and the
26 general objectives specified in section 441(b)(1).

1 ‘(2) EXPERIENCE AND QUALIFICATIONS.—A
2 demonstration of ability to carry out the project, by
3 means such as demonstration of experience in suc-
4 cessfully carrying out projects of similar design and
5 scope, and such other information as the Secretary
6 may find necessary to demonstrate the entity’s ca-
7 pacity to carry out the project, including the entity’s
8 ability to provide the non-Federal share of project
9 resources.

10 ‘(3) ADDRESSING CHILD ABUSE AND NEGLECT
11 AND DOMESTIC VIOLENCE.—A description of how
12 the entity will assess for the presence of, and inter-
13 vene to resolve, domestic violence and child abuse
14 and neglect, including how the entity will coordinate
15 with State and local child protective service and do-
16 mestic violence programs.

17 ‘(4) ADDRESSING CONCERNS RELATING TO
18 SUBSTANCE ABUSE AND SEXUAL ACTIVITY.—A com-
19 mitment to make available to each individual partici-
20 pating in the project education about alcohol, to-
21 bacco, and other drugs, and about the health risks
22 associated with abusing such substances, and infor-
23 mation about diseases and conditions transmitted
24 through substance abuse and sexual contact, includ-

1 ing HIV/AIDS, and to coordinate with providers of
2 services addressing such problems, as appropriate.

3 ‘(5) COORDINATION WITH SPECIFIED PRO-
4 GRAMS.—An undertaking to coordinate, as appro-
5 priate, with State and local entities responsible for
6 the programs under parts A, B, and D of this title,
7 including programs under title I of the Workforce
8 Investment Act of 1998 (including the One-Stop de-
9 livery system), and such other programs as the Sec-
10 retary may require.

11 ‘(6) RECORDS, REPORTS, AND AUDITS.—An
12 agreement to maintain such records, make such re-
13 ports, and cooperate with such reviews or audits as
14 the Secretary may find necessary for purposes of
15 oversight of project activities and expenditures.

16 ‘(7) SELF-INITIATED EVALUATION.—If the enti-
17 ty elects to contract for independent evaluation of
18 the project (part or all of the cost of which may be
19 paid for using grant funds), a commitment to sub-
20 mit to the Secretary a copy of the evaluation report
21 within 30 days after completion of the report and
22 not more than 1 year after completion of the project.

23 ‘(8) COOPERATION WITH SECRETARY’S OVER-
24 SIGHT AND EVALUATION.—An agreement to cooper-
25 ate with the Secretary’s evaluation of projects as-

1 sisted under this section, by means including ran-
2 dom assignment of clients to service recipient and
3 control groups, if determined by the Secretary to be
4 appropriate, and affording the Secretary access to
5 the project and to project-related records and docu-
6 ments, staff, and clients.

7 ‘(c) ELIGIBILITY CRITERIA FOR LIMITED PURPOSE
8 GRANTS.—In order to be eligible for a grant under this
9 section in an amount under \$25,000 per fiscal year, an
10 entity shall submit an application to the Secretary con-
11 taining the following:

12 ‘(1) PROJECT DESCRIPTION.—A description of
13 the project and how it will be carried out, including
14 the number and characteristics of clients to be
15 served, the proposed duration of the project, and
16 how it will address at least 1 of the 4 objectives
17 specified in section 441(b)(1).

18 ‘(2) QUALIFICATIONS.—Such information as
19 the Secretary may require as to the capacity of the
20 entity to carry out the project, including any pre-
21 vious experience with similar activities.

22 ‘(3) COORDINATION WITH RELATED PRO-
23 GRAMS.—As required by the Secretary in appro-
24 priate cases, an undertaking to coordinate and co-
25 operate with State and local entities responsible for

1 specific programs relating to the objectives of the
2 project including, as appropriate, jobs programs and
3 programs serving children and families.

4 ‘(4) RECORDS, REPORTS, AND AUDITS.—An
5 agreement to maintain such records, make such re-
6 ports, and cooperate with such reviews or audits as
7 the Secretary may find necessary for purposes of
8 oversight of project activities and expenditures.

9 ‘(5) COOPERATION WITH SECRETARY’S OVER-
10 SIGHT AND EVALUATION.—An agreement to cooper-
11 ate with the Secretary’s evaluation of projects as-
12 sisted under this section, by means including afford-
13 ing the Secretary access to the project and to
14 project-related records and documents, staff, and cli-
15 ents.

16 ‘(d) CONSIDERATIONS IN AWARDING GRANTS.—

17 ‘(1) DIVERSITY OF PROJECTS.—In awarding
18 grants under this section, the Secretary shall seek to
19 achieve a balance among entities of differing sizes,
20 entities in differing geographic areas, entities in
21 urban and in rural areas, and entities employing dif-
22 fering methods of achieving the purposes of this sec-
23 tion, including working with the State agency re-
24 sponsible for the administration of part D to help fa-
25 thers satisfy child support arrearage obligations.

1 ‘(2) PREFERENCE FOR PROJECTS SERVING
2 LOW-INCOME FATHERS.—In awarding grants under
3 this section, the Secretary may give preference to
4 applications for projects in which a majority of the
5 clients to be served are low-income fathers.

6 ‘(e) FEDERAL SHARE.—

7 ‘(1) IN GENERAL.—Grants for a project under
8 this section for a fiscal year shall be available for a
9 share of the cost of such project in such fiscal year
10 equal to—

11 ‘(A) up to 80 percent (or up to 90 percent,
12 if the entity demonstrates to the Secretary’s
13 satisfaction circumstances limiting the entity’s
14 ability to secure non-Federal resources) in the
15 case of a project under subsection (b); and

16 ‘(B) up to 100 percent, in the case of a
17 project under subsection (c).

18 ‘(2) NON-FEDERAL SHARE.—The non-Federal
19 share may be in cash or in kind. In determining the
20 amount of the non-Federal share, the Secretary may
21 attribute fair market value to goods, services, and
22 facilities contributed from non-Federal sources.

1 **‘SEC. 444. MULTICITY, MULTISTATE DEMONSTRATION**
2 **PROJECTS.**

3 ‘(a) IN GENERAL.—The Secretary may make grants
4 under this section for fiscal years 2006 through 2010 to
5 eligible entities (as specified in subsection (b)) for 2
6 multicity, multistate projects demonstrating approaches to
7 achieving the objectives specified in section 441(b)(1). One
8 of the projects shall test the use of married couples to
9 deliver program services.

10 ‘(b) ELIGIBLE ENTITIES.—An entity eligible for a
11 grant under this section must be a national nonprofit fa-
12 therhood promotion organization that meets the following
13 requirements:

14 ‘(1) EXPERIENCE WITH FATHERHOOD PRO-
15 GRAMS.—The organization must have substantial ex-
16 perience in designing and successfully conducting
17 programs that meet the purposes described in sec-
18 tion 441.

19 ‘(2) EXPERIENCE WITH MULTICITY,
20 MULTISTATE PROGRAMS AND GOVERNMENT COORDI-
21 NATION.—The organization must have experience in
22 simultaneously conducting such programs in more
23 than 1 major metropolitan area in more than 1
24 State and in coordinating such programs, where ap-
25 propriate, with State and local government agencies
26 and private, nonprofit agencies (including commu-

1 nity-based and religious organizations), including
2 State or local agencies responsible for child support
3 enforcement and workforce development.

4 ‘(c) APPLICATION REQUIREMENTS.—In order to be
5 eligible for a grant under this section, an entity must sub-
6 mit to the Secretary an application that includes the fol-
7 lowing:

8 ‘(1) QUALIFICATIONS.—

9 ‘(A) ELIGIBLE ENTITY.—A demonstration
10 that the entity meets the requirements of sub-
11 section (b).

12 ‘(B) OTHER.—Such other information as
13 the Secretary may find necessary to dem-
14 onstrate the entity’s capacity to carry out the
15 project, including the entity’s ability to provide
16 the non-Federal share of project resources.

17 ‘(2) PROJECT DESCRIPTION.—A description of
18 and commitments concerning the project design, in-
19 cluding the following:

20 ‘(A) IN GENERAL.—A detailed description
21 of the proposed project design and how it will
22 be carried out, which shall—

23 ‘(i) provide for the project to be con-
24 ducted in at least 3 major metropolitan
25 areas;

1 ‘(ii) state how it will address each of
2 the 4 objectives specified in section
3 441(b)(1);

4 ‘(iii) demonstrate that there is a suffi-
5 cient number of potential clients to allow
6 for the random selection of individuals to
7 participate in the project and for compari-
8 sons with appropriate control groups com-
9 posed of individuals who have not partici-
10 pated in such projects; and

11 ‘(iv) demonstrate that the project is
12 designed to direct a majority of project re-
13 sources to activities serving low-income fa-
14 thers (but the project need not make serv-
15 ices available on a means-tested basis).

16 ‘(B) OVERSIGHT, EVALUATION, AND AD-
17 JUSTMENT COMPONENT.—An agreement that
18 the entity—

19 ‘(i) in consultation with the evaluator
20 selected pursuant to section 446, and as
21 required by the Secretary, will modify the
22 project design, initially and (if necessary)
23 subsequently throughout the duration of
24 the project, in order to facilitate ongoing
25 and final oversight and evaluation of

1 project operation and outcomes (by means
2 including, to the maximum extent feasible,
3 random assignment of clients to service re-
4 cipient and control groups), and to provide
5 for mid-course adjustments in project de-
6 sign indicated by interim evaluations;

7 ‘(ii) will submit to the Secretary re-
8 vised descriptions of the project design as
9 modified in accordance with clause (i); and

10 ‘(iii) will cooperate fully with the Sec-
11 retary’s ongoing oversight and ongoing and
12 final evaluation of the project, by means
13 including affording the Secretary access to
14 the project and to project-related records
15 and documents, staff, and clients.

16 ‘(3) ADDRESSING CHILD ABUSE AND NEGLECT
17 AND DOMESTIC VIOLENCE.—A description of how
18 the entity will assess for the presence of, and inter-
19 vene to resolve, domestic violence and child abuse
20 and neglect, including how the entity will coordinate
21 with State and local child protective service and do-
22 mestic violence programs.

23 ‘(4) ADDRESSING CONCERNS RELATING TO
24 SUBSTANCE ABUSE AND SEXUAL ACTIVITY.—A com-
25 mitment to make available to each individual partici-

1 pating in the project education about alcohol, to-
2 bacco, and other drugs, and about the health risks
3 associated with abusing such substances, and infor-
4 mation about diseases and conditions transmitted
5 through substance abuse and sexual contact, includ-
6 ing HIV/AIDS, and to coordinate with providers of
7 services addressing such problems, as appropriate.

8 ‘(5) COORDINATION WITH SPECIFIED PRO-
9 GRAMS.—An undertaking to coordinate, as appro-
10 pate, with State and local entities responsible for
11 the programs funded under parts A, B, and D of
12 this title, programs under title I of the Workforce
13 Investment Act of 1998 (including the One-Stop de-
14 livery system), and such other programs as the Sec-
15 retary may require.

16 ‘(6) RECORDS, REPORTS, AND AUDITS.—An
17 agreement to maintain such records, make such re-
18 ports, and cooperate with such reviews or audits (in
19 addition to those required under the preceding provi-
20 sions of paragraph (2)) as the Secretary may find
21 necessary for purposes of oversight of project activi-
22 ties and expenditures.

23 ‘(d) FEDERAL SHARE.—

24 ‘(1) IN GENERAL.—Grants for a project under
25 this section for a fiscal year shall be available for up

1 to 80 percent of the cost of such project in such fis-
2 cal year.

3 ‘(2) NON-FEDERAL SHARE.—The non-Federal
4 share may be in cash or in kind. In determining the
5 amount of the non-Federal share, the Secretary may
6 attribute fair market value to goods, services, and
7 facilities contributed from non-Federal sources.

8 **‘SEC. 445. ECONOMIC INCENTIVE DEMONSTRATION**
9 **PROJECTS.**

10 ‘(a) IN GENERAL.—The Secretary may make grants
11 under this section for fiscal years 2006 through 2010 to
12 eligible entities (as specified in subsection (b)) for two to
13 five projects demonstrating approaches to achieving the
14 objectives specified in section 441(b)(1). Drawing on the
15 success of economic-incentive programs in demonstrating
16 strong employment effects for low-income mothers,
17 projects shall test the use of economic incentives combined
18 with a comprehensive approach to addressing employment
19 barriers to encourage non-custodial parents to enter the
20 workforce and to contribute financially and emotionally to
21 their children. The Secretary may make grants based on
22 the level of innovation, comprehensiveness, and likelihood
23 to achieve the goal of increased employment by the appli-
24 cant.

1 ‘(b) ELIGIBLE ENTITIES.—An entity eligible for a
2 grant under this section must be a national nonprofit fa-
3 therhood promotion organization that meets the following
4 requirements:

5 ‘(1) EXPERIENCE WITH FATHERHOOD PRO-
6 GRAMS.—The organization must have substantial ex-
7 perience in designing and successfully conducting
8 programs that meet the purposes described in sec-
9 tion 441.

10 ‘(2) EXPERIENCE ADDRESSING MULTIPLE BAR-
11 RIERS TO EMPLOYMENT.—The organization must
12 have experience in conducting such programs and in
13 coordinating such programs, where appropriate, with
14 State and local government agencies and private,
15 nonprofit agencies (including community-based and
16 religious organizations), including State or local
17 agencies responsible for child support enforcement
18 and workforce development.

19 ‘(3) NEGOTIATED AGREEMENTS WITH STATE
20 AND LOCAL AGENCIES FOR APPROPRIATE POLICY
21 CHANGES TO ADDRESS BARRIERS TO EMPLOY-
22 MENT.—The organization must have agreements in
23 place with State and local government agencies, in-
24 cluding State or local agencies responsible for child
25 support enforcement and workforce development, to

1 incorporate appropriate policy changes proposed to
2 address barriers to employment.

3 ‘(c) APPLICATION REQUIREMENTS.—In order to be
4 eligible for a grant under this section, an entity must sub-
5 mit to the Secretary an application that includes the fol-
6 lowing:

7 ‘(1) QUALIFICATIONS.—

8 ‘(A) ELIGIBLE ENTITY.—A demonstration
9 that the entity meets the requirements of sub-
10 section (b).

11 ‘(B) OTHER.—Such other information as
12 the Secretary may find necessary to dem-
13 onstrate the entity’s capacity to carry out the
14 project, including the entity’s ability to provide
15 the non-Federal share of project resources.

16 ‘(2) PROJECT DESCRIPTION.—A description of
17 and commitments concerning the project design, in-
18 cluding the following:

19 ‘(A) IN GENERAL.—A detailed description
20 of the proposed project design and how the
21 project will be carried out, which shall—

22 ‘(i) state how the project will address
23 each of the 4 objectives specified in section
24 441(b)(1);

1 ‘(ii) state how the project will address
2 employment barriers across programs
3 (such as child support, criminal justice,
4 and workforce development programs)
5 using both sanctions and compliance along
6 with monetary incentives for obtaining em-
7 ployment, with earning subsidies contin-
8 gent upon work and child support pay-
9 ment;

10 ‘(iii) demonstrate that there is a suffi-
11 cient number of potential clients to allow
12 for the random selection of individuals to
13 participate in the project and for compari-
14 sons with appropriate control groups com-
15 posed of individuals who have not partici-
16 pated in such projects; and

17 ‘(iv) demonstrate that the project is
18 designed to direct a majority of project re-
19 sources to activities serving low-income fa-
20 thers (but the project need not make serv-
21 ices available on a means-tested basis).

22 ‘(B) OVERSIGHT, EVALUATION, AND AD-
23 JUSTMENT COMPONENT.—An agreement that
24 the entity—

1 ‘(i) in consultation with the evaluator
2 selected pursuant to section 446, and as
3 required by the Secretary, will modify the
4 project design, initially and (if necessary)
5 subsequently throughout the duration of
6 the project, in order to facilitate ongoing
7 and final oversight and evaluation of
8 project operation and outcomes (by means
9 including, to the maximum extent feasible,
10 random assignment of clients to service re-
11 cipient and control groups), and to provide
12 for mid-course adjustments in project de-
13 sign indicated by interim evaluations;

14 ‘(ii) will submit to the Secretary re-
15 vised descriptions of the project design as
16 modified in accordance with clause (i); and

17 ‘(iii) will cooperate fully with the Sec-
18 retary’s ongoing oversight and ongoing and
19 final evaluation of the project, by means
20 including affording the Secretary access to
21 the project and to project-related records
22 and documents, staff, and clients.

23 ‘(3) ADDRESSING CHILD ABUSE AND NEGLECT
24 AND DOMESTIC VIOLENCE.—A description of how
25 the entity will assess for the presence of, and inter-

1 vene to resolve, domestic violence and child abuse
2 and neglect, including how the entity will coordinate
3 with State and local child protective service and do-
4 mestic violence programs.

5 ‘(4) ADDRESSING CONCERNS RELATING TO
6 SUBSTANCE ABUSE AND SEXUAL ACTIVITY.—A com-
7 mitment to make available to each individual partici-
8 pating in the project education about alcohol, to-
9 bacco, and other drugs, and about the health risks
10 associated with abusing such substances, and infor-
11 mation about diseases and conditions transmitted
12 through substance abuse and sexual contact, includ-
13 ing HIV/AIDS, and to coordinate with providers of
14 services addressing such problems, as appropriate.

15 ‘(5) COORDINATION WITH SPECIFIED PRO-
16 GRAMS.—An undertaking to coordinate, as appro-
17 priate, with State and local entities responsible for
18 the programs funded under parts A, B, and D of
19 this title, programs under title I of the Workforce
20 Investment Act of 1998 (including the One-Stop de-
21 livery system), and such other programs as the Sec-
22 retary may require.

23 ‘(6) RECORDS, REPORTS, AND AUDITS.—An
24 agreement to maintain such records, make such re-
25 ports, and cooperate with such reviews or audits (in

1 addition to those required under the preceding provi-
2 sions of paragraph (2)) as the Secretary may find
3 necessary for purposes of oversight of project activi-
4 ties and expenditures.

5 ‘(d) FEDERAL SHARE.—

6 ‘(1) IN GENERAL.—Grants for a project under
7 this section for a fiscal year shall be available for up
8 to 80 percent of the cost of such project in such fis-
9 cal year.

10 ‘(2) NON-FEDERAL SHARE.—The non-Federal
11 share may be in cash or in kind. In determining the
12 amount of the non-Federal share, the Secretary may
13 attribute fair market value to goods, services, and
14 facilities contributed from non-Federal sources.

15 **‘SEC. 446. EVALUATION.**

16 ‘(a) IN GENERAL.—The Secretary, directly or by con-
17 tract or cooperative agreement, shall evaluate the effec-
18 tiveness of service projects funded under sections 443 and
19 444 from the standpoint of the purposes specified in sec-
20 tion 441(b)(1).

21 ‘(b) EVALUATION METHODOLOGY.—Evaluations
22 under this section shall—

23 ‘(1) include, to the maximum extent feasible,
24 random assignment of clients to service delivery and
25 control groups and other appropriate comparisons of

1 groups of individuals receiving and not receiving
2 services;

3 ‘(2) describe and measure the effectiveness of
4 the projects in achieving their specific project goals;
5 and

6 ‘(3) describe and assess, as appropriate, the im-
7 pact of such projects on marriage, parenting, domes-
8 tic violence, child abuse and neglect, money manage-
9 ment, employment and earnings, payment of child
10 support, and child well-being, health, and education.

11 ‘(c) EVALUATION REPORTS.—The Secretary shall
12 publish the following reports on the results of the evalua-
13 tion:

14 ‘(1) An implementation evaluation report cov-
15 ering the first 24 months of the activities under this
16 part to be completed by 36 months after initiation
17 of such activities.

18 ‘(2) A final report on the evaluation to be com-
19 pleted by September 30, 2013.

20 **‘SEC. 447. PROJECTS OF NATIONAL SIGNIFICANCE.**

21 ‘The Secretary is authorized, by grant, contract, or
22 cooperative agreement, to carry out projects and activities
23 of national significance relating to fatherhood promotion,
24 including—

1 ‘(1) COLLECTION AND DISSEMINATION OF IN-
2 FORMATION.—Assisting States, communities, and
3 private entities, including religious organizations, in
4 efforts to promote and support marriage and respon-
5 sible fatherhood by collecting, evaluating, developing,
6 and making available (through the Internet and by
7 other means) to all interested parties information re-
8 garding approaches to accomplishing the objectives
9 specified in section 441(b)(1).

10 ‘(2) MEDIA CAMPAIGN.—Developing, promoting,
11 and distributing to interested States, local govern-
12 ments, public agencies, and private nonprofit organi-
13 zations, including charitable and religious organiza-
14 tions, a media campaign that promotes and encour-
15 ages involved, committed, and responsible fatherhood
16 and married fatherhood.

17 ‘(3) TECHNICAL ASSISTANCE.—Providing tech-
18 nical assistance, including consultation and training,
19 to public and private entities, including community
20 organizations and faith-based organizations, in the
21 implementation of local fatherhood promotion pro-
22 grams.

23 ‘(4) RESEARCH.—Conducting research related
24 to the purposes of this part.

1 **‘SEC. 448. NONDISCRIMINATION.**

2 ‘The projects and activities assisted under this part
3 shall be available on the same basis to all fathers and ex-
4 pectant fathers able to benefit from such projects and ac-
5 tivities, including married and unmarried fathers and cus-
6 todial and noncustodial fathers, with particular attention
7 to low-income fathers, and to mothers and expectant
8 mothers on the same basis as to fathers.

9 **‘SEC. 449. AUTHORIZATION OF APPROPRIATIONS; RES-**
10 **ERVATION FOR CERTAIN PURPOSE.**

11 ‘(a) AUTHORIZATION.—There are authorized to be
12 appropriated \$20,000,000 for each of fiscal years 2006
13 through 2010 to carry out the provisions of this part.

14 ‘(b) RESERVATION.—Of the amount appropriated
15 under this section for each fiscal year, not more than 35
16 percent shall be available for the costs of the multicounty,
17 multicounty, multistate demonstration projects under sec-
18 tion 444, the economic incentives demonstration projects
19 under section 445, evaluations under section 446, and
20 projects of national significance under section 447, with
21 not less than \$5,000,000 allocated to the economic incen-
22 tives demonstration project under section 445.’.

23 “(b) INAPPLICABILITY OF EFFECTIVE DATE PROVI-
24 SIONS.—Section 116 shall not apply to the amendment
25 made by subsection (a) of this section.”.

1 (2) CLERICAL AMENDMENT.—Section 2 of such
2 Act is amended in the table of contents by inserting
3 after the item relating to section 116 the following
4 new item:

“Sec. 117. Fatherhood program.”.

5 **SEC. 2016. STATE OPTION TO MAKE TANF PROGRAMS MAN-**
6 **DATORY PARTNERS WITH ONE-STOP EMPLOY-**
7 **MENT TRAINING CENTERS.**

8 Section 408 (42 U.S.C. 608) is amended by adding
9 at the end the following:

10 “(h) STATE OPTION TO MAKE TANF PROGRAMS
11 MANDATORY PARTNERS WITH ONE-STOP EMPLOYMENT
12 TRAINING CENTERS.—For purposes of section 121(b) of
13 the Workforce Investment Act of 1998, a State program
14 funded under part A of title IV of the Social Security Act
15 shall be considered a program referred to in paragraph
16 (1)(B) of such section, unless, after the date of the enact-
17 ment of this subsection, the Governor of the State notifies
18 the Secretaries of Health and Human Services and Labor
19 in writing of the decision of the Governor not to make
20 the State program a mandatory partner.”.

21 **SEC. 2017. SENSE OF THE CONGRESS.**

22 It is the sense of the Congress that a State welfare-
23 to-work program should include a mentoring program.

1 **SEC. 2018. PROHIBITION ON OFFSHORING.**

2 Section 408(a) (42 U.S.C. 608(a)) is amended by
3 adding at the end the following:

4 “(12) PROHIBITION ON OFFSHORING.—A State
5 to which a grant is made under section 403 shall not
6 use any part of the grant—

7 “(A) to enter into a contract with an entity
8 that, directly or through a subcontractor, pro-
9 vides any service, activity or function described
10 under this part at a location outside the United
11 States; or

12 “(B) to reduce employment in the United
13 States through use of 1 or more employees out-
14 side the United States.”.

15 **PART 3—CHILD CARE**

16 **SEC. 2021. SHORT TITLE.**

17 This part may be cited as the “Caring for Children
18 Act of 2005”.

19 **SEC. 2022. GOALS.**

20 (a) GOALS.—Section 658A(b) of the Child Care and
21 Development Block Grant Act of 1990 (42 U.S.C. 9801
22 note) is amended—

23 (1) in paragraph (3) by striking “encourage”
24 and inserting “assist”,

25 (2) by amending paragraph (4) to read as fol-
26 lows:

1 “(4) to assist States to provide child care to
2 low-income parents;”,

3 (3) by redesignating paragraph (5) as para-
4 graph (7), and

5 (4) by inserting after paragraph (4) the fol-
6 lowing:

7 “(5) to encourage States to improve the quality
8 of child care available to families;

9 “(6) to promote school readiness by encour-
10 aging the exposure of young children in child care to
11 nurturing environments and developmentally-appro-
12 priate activities, including activities to foster early
13 cognitive and literacy development; and”.

14 (b) CONFORMING AMENDMENT.—Section
15 658E(c)(3)(B) of the Child Care and Development Block
16 Grant Act of 1990 (42 U.S.C. 9858c(c)(3)(B)) is amended
17 by striking “through (5)” and inserting “through (7)”.

18 **SEC. 2023. AUTHORIZATION OF APPROPRIATIONS.**

19 Section 658B of the Child Care and Development
20 Block Grant Act of 1990 (42 U.S.C. 9858) is amended—

21 (1) by striking “is” and inserting “are”, and

22 (2) by striking “\$1,000,000,000 for each of the
23 fiscal years 1996 through 2002” and inserting
24 “\$2,300,000,000 for fiscal year 2006,
25 \$2,500,000,000 for fiscal year 2007,

1 \$2,700,000,000 for fiscal year 2008,
2 \$2,900,000,000 for fiscal year 2009, and
3 \$3,100,000,000 for fiscal year 2010”.

4 **SEC. 2024. APPLICATION AND PLAN.**

5 Section 658E(c)(2) of the Child Care and Develop-
6 ment Block Grant Act of 1990 (42 U.S.C. 9858C(c)(2))
7 is amended—

8 (1) by amending subparagraph (D) to read as
9 follows:

10 “(D) CONSUMER AND CHILD CARE PRO-
11 VIDER EDUCATION INFORMATION.—

12 “(i) CERTIFICATION.—Certify that
13 the State will collect and disseminate,
14 through resource and referral services and
15 other means as determined by the State, to
16 parents of eligible children, child care pro-
17 viders, and the general public, information
18 regarding—

19 “(I) the promotion of informed
20 child care choices, including informa-
21 tion about the quality and availability
22 of child care services;

23 “(II) research and best practices
24 on children’s development, including
25 early cognitive development;

1 “(III) the availability of assist-
2 ance to obtain child care services; and

3 “(IV) other programs for which
4 families that receive child care serv-
5 ices for which financial assistance is
6 provided under this subchapter may
7 be eligible, including the food stamp
8 program, the WIC program under sec-
9 tion 17 of the Child Nutrition Act of
10 1966, the child and adult care food
11 program under section 17 of the Rich-
12 ard B. Russell National School Lunch
13 Act, Head Start programs, Early
14 Head Start programs, services and ac-
15 tivities under section 619 and part C
16 of the Individuals with Disabilities
17 Education Act, and the medicaid and
18 SCHIP programs under titles XIX
19 and XXI of the Social Security Act.

20 “(ii) INFORMATION.—Information
21 provided to parents shall be in plain lan-
22 guage and, to the extent practicable, be in
23 a language that such parents can under-
24 stand.”, and

1 (2) by inserting after subparagraph (H) the fol-
2 lowing:

3 “(I) COORDINATION WITH OTHER EARLY
4 CHILD CARE SERVICES AND EARLY CHILDHOOD
5 EDUCATION PROGRAMS.—Demonstrate how the
6 State is coordinating child care services pro-
7 vided under this subchapter with Head Start
8 programs, Early Head Start programs, Early
9 Reading First, Even Start, Ready-To-Learn
10 Television, services and activities under section
11 619 and part C of the Individuals with Disabil-
12 ities Education Act, State pre-kindergarten pro-
13 grams, and other early childhood education pro-
14 grams to expand accessibility to and continuity
15 of care and early education consistent with the
16 goals of this Act, without displacing services
17 provided by the current early care and edu-
18 cation delivery system.

19 “(J) PUBLIC-PRIVATE PARTNERSHIPS.—
20 Demonstrate how the State encourages partner-
21 ships with private and other public entities to
22 leverage existing service delivery systems of
23 early childhood education and increase the sup-
24 ply and quality of child care services.

25 “(K) CHILD CARE SERVICE QUALITY.—

1 “(i) CERTIFICATION.—For each fiscal
2 year after fiscal year 2006, certify that
3 during the then preceding fiscal year the
4 State was in compliance with section 658G
5 and describe how funds were used to com-
6 ply with such section during such pre-
7 ceding fiscal year.

8 “(ii) STRATEGY.—For each fiscal year
9 after fiscal year 2006, contain an outline
10 of the strategy the State will implement
11 during such fiscal year for which the State
12 plan is submitted, to address the quality of
13 child care services in the State available
14 from eligible child care providers, and in-
15 clude in such strategy—

16 “(I) a statement specifying how
17 the State will address the activities
18 described in paragraphs (1), (2), and
19 (3) of section 658G;

20 “(II) a description of measures
21 for evaluating the quality improve-
22 ments generated by the activities list-
23 ed in each of such paragraphs that
24 the State will use to evaluate its

1 progress in improving the quality of
2 such child care services;

3 “(III) a list of State-developed
4 child care service quality targets for
5 such fiscal year quantified on the
6 basis of such measures; and

7 “(IV) for each fiscal year after
8 fiscal year 2006, a report on the
9 progress made to achieve such targets
10 during the then preceding fiscal year.

11 “(iii) RULE OF CONSTRUCTION.—
12 Nothing in this subparagraph shall be con-
13 strued to require that the State apply
14 measures for evaluating quality to specific
15 types of child care providers.

16 “(L) ACCESS TO CARE FOR CERTAIN POPU-
17 LATIONS.—Demonstrate how the State is ad-
18 dressing the child care needs of parents eligible
19 for child care services for which financial assist-
20 ance is provided under this subchapter who
21 have children with special needs, are limited
22 English proficient, work nontraditional hours,
23 or require child care services for infants or tod-
24 dlers.”.

1 **SEC. 2025. ACTIVITIES TO IMPROVE THE QUALITY OF**
2 **CHILD CARE.**

3 Section 658G of the Child Care and Development
4 Block Grant Act of 1990 (42 U.S.C. 9858e) is amended
5 to read as follows:

6 **“SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF**
7 **CHILD CARE SERVICES.**

8 “A State that receives funds to carry out this sub-
9 chapter for a fiscal year, shall use not less than 6 percent
10 of the amount of such funds for activities provided
11 through resource and referral services and other means,
12 that are designed to improve the quality of child care serv-
13 ices in the State available from eligible child care pro-
14 viders. Such activities include—

15 “(1) programs that provide training, education,
16 and other professional development activities to en-
17 hance the skills of the child care workforce, includ-
18 ing training opportunities for caregivers in informal
19 care settings;

20 “(2) activities within child care settings to en-
21 hance early learning for young children, to promote
22 early literacy, and to foster school readiness;

23 “(3) initiatives to increase the retention and
24 compensation of child care providers, including
25 tiered reimbursement rates for providers that meet
26 quality standards as defined by the State; or

1 “(4) other activities deemed by the State to im-
2 prove the quality of child care services provided in
3 such State.”.

4 **SEC. 2026. REPORTS AND AUDITS.**

5 Section 658K(a)(1)(B)(iii) of the Child Care and De-
6 velopment Block Grant Act of 1990 (42 U.S.C.
7 9858i(a)(1)(B)(iii)) is amended by inserting “ethnicity,
8 primary language,” after “race,”.

9 **SEC. 2027. REPORT BY SECRETARY.**

10 Section 658L of the Child Care and Development
11 Block Grant Act of 1990 (42 U.S.C. 9858j) is amended
12 to read as follows:

13 **“SEC. 658L. REPORT BY SECRETARY.**

14 “(a) REPORT REQUIRED.—Not later than October 1,
15 2007, and biennially thereafter, the Secretary shall pre-
16 pare and submit to the Committee on Education and the
17 Workforce of the House of Representatives and the Com-
18 mittee on Health, Education, Labor and Pensions of the
19 Senate a report that contains the following:

20 “(1) A summary and analysis of the data and
21 information provided to the Secretary in the State
22 reports submitted under section 658K.

23 “(2) Aggregated statistics on the supply of, de-
24 mand for, and quality of child care, early education,
25 and non-school-hours programs.

1 “(3) An assessment, and where appropriate,
2 recommendations for the Congress concerning ef-
3 forts that should be undertaken to improve the ac-
4 cess of the public to quality and affordable child care
5 in the United States.

6 “(b) COLLECTION OF INFORMATION.—The Secretary
7 may utilize the national child care data system available
8 through resource and referral organizations at the local,
9 State, and national level to collect the information re-
10 quired by subsection (a)(2).”.

11 **SEC. 2028. DEFINITIONS.**

12 (a) ELIGIBLE CHILDREN.—Section 658P(4)(B) of
13 the Child Care and Development Block Grant Act of 1990
14 (42 U.S.C. 9858N(4)(B)) is amended by striking “85 per-
15 cent of the State median income” and inserting “income
16 levels as established by the State, prioritized by need,”.

17 (b) LIMITED ENGLISH PROFICIENT.—Section 658P
18 of the Child Care and Development Block Grant Act of
19 1990 (42 U.S.C. 9858n) is amended—

20 (1) by redesignating paragraph (9) as para-
21 graph (10); and

22 (2) by inserting after paragraph (8) the fol-
23 lowing:

1 “(9) LIMITED ENGLISH PROFICIENT.—The
2 term ‘limited English proficient’ means with respect
3 to an individual, that such individual—

4 “(A)(i) was not born in the United States
5 or has a native language that is not English;

6 “(ii)(I) is a Native American, an Alaska
7 Native, or a native resident of a territory or
8 possession of the United States; and

9 “(II) comes from an environment in which
10 a language that is not English has had a sig-
11 nificant impact on such individual’s level of
12 English language proficiency; or

13 “(iii) is migratory, has a native language
14 that is not English, and comes from an environ-
15 ment in which a language that is not English
16 is dominant; and

17 “(B) has difficulty in speaking or under-
18 standing the English language to an extent that
19 may be sufficient to deny such individual—

20 “(i) the ability to successfully achieve
21 in classrooms in which the language of in-
22 struction is English; or

23 “(ii) the opportunity to fully partici-
24 pate in society.”.

1 **SEC. 2029. WAIVER AUTHORITY TO EXPAND THE AVAIL-**
2 **ABILITY OF SERVICES UNDER CHILD CARE**
3 **AND DEVELOPMENT BLOCK GRANT ACT OF**
4 **1990.**

5 (a) WAIVER AUTHORITY.—For such period up to
6 June 30, 2006, and to such extent as the Secretary con-
7 sider to be appropriate, the Secretary of Health and
8 Human Service may waive or modify, for any affected
9 State, and any State serving significant numbers of indi-
10 viduals adversely affected by a Gulf hurricane disaster,
11 provisions of the Child Care and Development Block
12 Grant Act of 1990 (42 U.S.C. 9858 et seq.)—

13 (1) relating to Federal income limitations on
14 eligibility to receive child care services for which as-
15 sistance is provided under such Act,

16 (2) relating to work requirements applicable to
17 eligibility to receive child care services for which as-
18 sistance is provided under such Act,

19 (3) relating to limitations on the use of funds
20 under section 658G of the Child Care and Develop-
21 ment Block Grant Act of 1990, and

22 (4) preventing children designated as evacuees
23 from receiving priority for child care services pro-
24 vided under such Act, except that children residing
25 in a State and currently receiving services should

1 not lose such services in order to accommodate evac-
2 uee children,
3 for purposes of easing State fiscal burdens and providing
4 child care services to children orphaned, or of families dis-
5 placed, as a result of a Gulf hurricane disaster.

6 (b) DEFINITIONS.—For purposes of this section:

7 (1) AFFECTED STATE.—The term “affected
8 State” means the State of Alabama, Florida, Lou-
9 isiana, Mississippi, or Texas.

10 (2) GULF HURRICANE DISASTER.—The term
11 “Gulf hurricane disaster” means a major disaster
12 that the President declared to exist, in accordance
13 with section 401 of the Robert T. Stafford Disaster
14 Relief and Emergency Assistance Act, and that was
15 caused by Hurricane Katrina or Hurricane Rita.

16 (3) INDIVIDUAL ADVERSELY AFFECTED BY A
17 GULF HURRICANE DISASTER.—The term “individual
18 adversely affected by a Gulf hurricane disaster”
19 means an individual who, on August 29, 2005, was
20 living, working, or attending school in an area in
21 which the President has declared to exist a Gulf hur-
22 ricane disaster.

1 **PART 4—STATE AND LOCAL FLEXIBILITY**

2 **SEC. 2041. PROGRAM COORDINATION DEMONSTRATION**
3 **PROJECTS.**

4 (a) **PURPOSE.**—The purpose of this section is to es-
5 tablish a program of demonstration projects in a State or
6 portion of a State to coordinate multiple public assistance,
7 workforce development, and other programs, for the pur-
8 pose of supporting working individuals and families, help-
9 ing families escape welfare dependency, promoting child
10 well-being, or helping build stronger families, using inno-
11 vative approaches to strengthen service systems and pro-
12 vide more coordinated and effective service delivery.

13 (b) **DEFINITIONS.**—In this section:

14 (1) **ADMINISTERING SECRETARY.**—The term
15 “administering Secretary” means, with respect to a
16 qualified program, the head of the Federal agency
17 responsible for administering the program.

18 (2) **QUALIFIED PROGRAM.**—The term “qualified
19 program” means—

20 (A) activities funded under title I of the
21 Workforce Investment Act of 1998, except sub-
22 title C of such title;

23 (B) a demonstration project authorized
24 under section 505 of the Family Support Act of
25 1988;

1 (C) activities funded under the Wagner-
2 Peyser Act;

3 (D) activities funded under the Adult Edu-
4 cation and Family Literacy Act; or

5 (E) activities funded under the Child Care
6 and Development Block Grant Act of 1990;

7 (c) APPLICATION REQUIREMENTS.—The head of a
8 State entity or of a sub-State entity administering 2 or
9 more qualified programs proposed to be included in a dem-
10 onstration project under this section shall (or, if the
11 project is proposed to include qualified programs adminis-
12 tered by 2 or more such entities, the heads of the admin-
13 istering entities (each of whom shall be considered an ap-
14 plicant for purposes of this section) shall jointly) submit
15 to the administering Secretary of each such program an
16 application that contains the following:

17 (1) PROGRAMS INCLUDED.—A statement identi-
18 fying each qualified program to be included in the
19 project, and describing how the purposes of each
20 such program will be achieved by the project.

21 (2) POPULATION SERVED.—A statement identi-
22 fying the population to be served by the project and
23 specifying the eligibility criteria to be used.

24 (3) DESCRIPTION AND JUSTIFICATION.—A de-
25 tailed description of the project, including—

1 (A) a description of how the project is ex-
2 pected to improve or enhance achievement of
3 the purposes of the programs to be included in
4 the project, from the standpoint of quality, of
5 cost-effectiveness, or of both; and

6 (B) a description of the performance objec-
7 tives for the project, including any proposed
8 modifications to the performance measures and
9 reporting requirements used in the programs.

10 (4) WAIVERS REQUESTED.—A description of
11 the statutory and regulatory requirements with re-
12 spect to which a waiver is requested in order to
13 carry out the project, and a justification of the need
14 for each such waiver.

15 (5) COST NEUTRALITY.—Such information and
16 assurances as necessary to establish to the satisfac-
17 tion of the administering Secretary, in consultation
18 with the Director of the Office of Management and
19 Budget, that the proposed project is reasonably ex-
20 pected to meet the applicable cost neutrality require-
21 ments of subsection (d)(4).

22 (6) EVALUATION AND REPORTS.—An assurance
23 that the applicant will conduct ongoing and final
24 evaluations of the project, and make interim and
25 final reports to the administering Secretary, at such

1 times and in such manner as the administering Sec-
2 retary may require.

3 (7) OTHER INFORMATION AND ASSURANCES.—

4 Such other information and assurances as the ad-
5 ministering Secretary may require.

6 (d) APPROVAL OF APPLICATIONS.—

7 (1) IN GENERAL.—The administering Secretary
8 with respect to a qualified program that is identified
9 in an application submitted pursuant to subsection
10 (c) may approve the application and, except as pro-
11 vided in paragraph (2), waive any requirement appli-
12 cable to the program, to the extent consistent with
13 this section and necessary and appropriate for the
14 conduct of the demonstration project proposed in the
15 application, if the administering Secretary deter-
16 mines that the project—

17 (A) has a reasonable likelihood of achieving
18 the objectives of the programs to be included in
19 the project;

20 (B) may reasonably be expected to meet
21 the applicable cost neutrality requirements of
22 paragraph (4), as determined by the Director of
23 the Office of Management and Budget; and

24 (C) includes the coordination of 2 or more
25 qualified programs.

1 (2) PROVISIONS EXCLUDED FROM WAIVER AU-
2 THORITY.—A waiver shall not be granted under
3 paragraph (1)—

4 (A) with respect to any provision of law re-
5 lating to—

6 (i) civil rights or prohibition of dis-
7 crimination;

8 (ii) purposes or goals of any program;

9 (iii) maintenance of effort require-
10 ments;

11 (iv) health or safety;

12 (v) labor standards under the Fair
13 Labor Standards Act of 1938; or

14 (vi) environmental protection;

15 (B) with respect to section 241(a) of the
16 Adult Education and Family Literacy Act;

17 (C) in the case of a program under the
18 Workforce Investment Act, with respect to any
19 requirement the waiver of which would violate
20 section 189(i)(4)(A)(i) of such Act;

21 (D) with respect to any requirement that a
22 State pass through to a sub-State entity part or
23 all of an amount paid to the State;

24 (E) if the waiver would waive any funding
25 restriction or limitation provided in an appro-

priations Act, or would have the effect of transferring appropriated funds from 1 appropriations account to another; or

(F) except as otherwise provided by statute, if the waiver would waive any funding restriction applicable to a program authorized under an Act which is not an appropriations Act (but not including program requirements such as application procedures, performance standards, reporting requirements, or eligibility standards), or would have the effect of transferring funds from a program for which there is direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985) to another program.

(3) AGREEMENT OF EACH ADMINISTERING SECRETARY REQUIRED.—

(A) IN GENERAL.—An applicant may not conduct a demonstration project under this section unless each administering Secretary with respect to any program proposed to be included in the project has approved the application to conduct the project.

(B) AGREEMENT WITH RESPECT TO FUNDING AND IMPLEMENTATION.—Before approving

1 an application to conduct a demonstration
2 project under this section, an administering
3 Secretary shall have in place an agreement with
4 the applicant with respect to the payment of
5 funds and responsibilities required of the ad-
6 ministering Secretary with respect to the
7 project.

8 (4) COST-NEUTRALITY REQUIREMENT.—

9 (A) GENERAL RULE.—Notwithstanding
10 any other provision of law (except subparagraph
11 (B)), the total of the amounts that may be paid
12 by the Federal Government for a fiscal year
13 with respect to the programs in the State in
14 which an entity conducting a demonstration
15 project under this section is located that are af-
16 fected by the project shall not exceed the esti-
17 mated total amount that the Federal Govern-
18 ment would have paid for the fiscal year with
19 respect to the programs if the project had not
20 been conducted, as determined by the Director
21 of the Office of Management and Budget.

22 (B) SPECIAL RULE.—If an applicant sub-
23 mits to the Director of the Office of Manage-
24 ment and Budget a request to apply the rules
25 of this subparagraph to the programs in the

1 State in which the applicant is located that are
2 affected by a demonstration project proposed in
3 an application submitted by the applicant pur-
4 suant to this section, during such period of not
5 more than 5 consecutive fiscal years in which
6 the project is in effect, and the Director deter-
7 mines, on the basis of supporting information
8 provided by the applicant, to grant the request,
9 then, notwithstanding any other provision of
10 law, the total of the amounts that may be paid
11 by the Federal Government for the period with
12 respect to the programs shall not exceed the es-
13 timated total amount that the Federal Govern-
14 ment would have paid for the period with re-
15 spect to the programs if the project had not
16 been conducted.

17 (5) 90-DAY APPROVAL DEADLINE.—

18 (A) IN GENERAL.—If an administering
19 Secretary receives an application to conduct a
20 demonstration project under this section and
21 does not disapprove the application within 90
22 days after the receipt, then—

23 (i) the administering Secretary is
24 deemed to have approved the application
25 for such period as is requested in the ap-

plication, except to the extent inconsistent with subsection (e); and

(ii) any waiver requested in the application which applies to a qualified program that is identified in the application and is administered by the administering Secretary is deemed to be granted, except to the extent inconsistent with paragraph (2) or (4) of this subsection.

(B) DEADLINE EXTENDED IF ADDITIONAL INFORMATION IS SOUGHT.—The 90-day period referred to in subparagraph (A) shall not include any period that begins with the date the Secretary requests the applicant to provide additional information with respect to the application and ends with the date the additional information is provided.

(e) DURATION OF PROJECTS.—A demonstration project under this section may be approved for a term of not more than 5 years.

(f) REPORTS TO CONGRESS.—

(1) REPORT ON DISPOSITION OF APPLICATIONS.—Within 90 days after an administering Secretary receives an application submitted pursuant to this section, the administering Secretary shall sub-

1 mit to each Committee of the Congress which has
2 jurisdiction over a qualified program identified in
3 the application notice of the receipt, a description of
4 the decision of the administering Secretary with re-
5 spect to the application, and the reasons for approv-
6 ing or disapproving the application.

7 (2) REPORTS ON PROJECTS.—Each admin-
8 istering Secretary shall provide annually to the Con-
9 gress a report concerning demonstration projects ap-
10 proved under this section, including—

11 (A) the projects approved for each appli-
12 cant;

13 (B) the number of waivers granted under
14 this section, and the specific statutory provi-
15 sions waived;

16 (C) how well each project for which a waiv-
17 er is granted is improving or enhancing pro-
18 gram achievement from the standpoint of qual-
19 ity, cost-effectiveness, or both;

20 (D) how well each project for which a
21 waiver is granted is meeting the performance
22 objectives specified in subsection (c)(3)(B);

23 (E) how each project for which a waiver is
24 granted is conforming with the cost-neutrality
25 requirements of subsection (d)(4); and

1 (F) to the extent the administering Sec-
2 retary deems appropriate, recommendations for
3 modification of programs based on outcomes of
4 the projects.

5 **PART 5—EFFECTIVE DATE**

6 **SEC. 2051. EFFECTIVE DATE.**

7 (a) IN GENERAL.—Except as otherwise provided in
8 this subtitle, this subtitle and the amendments made by
9 this subtitle shall take effect on the date of the enactment
10 of this Act.

11 (b) EXCEPTION.—In the case of a State plan under
12 part A of title IV of the Social Security Act which the
13 Secretary determines requires State legislation in order
14 for the plan to meet the additional requirements imposed
15 by the amendments made by this subtitle, the effective
16 date of the amendments imposing the additional require-
17 ments shall be 3 months after the first day of the first
18 calendar quarter beginning after the close of the first reg-
19 ular session of the State legislature that begins after the
20 date of the enactment of this Act. For purposes of the
21 preceding sentence, in the case of a State that has a 2-
22 year legislative session, each year of the session shall be
23 considered to be a separate regular session of the State
24 legislature.

1 **Subtitle B—Higher Education**

2 **SEC. 2101. SHORT TITLE.**

3 This subtitle may be cited as the “Higher Education
4 Budget Reconciliation Act of 2005”.

5 **PART 1—AMENDMENTS TO THE HIGHER** 6 **EDUCATION ACT OF 1965**

7 **SEC. 2111. REFERENCES; EFFECTIVE DATE.**

8 (a) REFERENCES.—Except as otherwise expressly
9 provided, whenever in this part an amendment or repeal
10 is expressed in terms of an amendment to, or repeal of,
11 a section or other provision, the reference shall be consid-
12 ered to be made to a section or other provision of the
13 Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

14 (b) EFFECTIVE DATE.—Except as otherwise provided
15 in this part, the amendments made by this part shall be
16 effective on the date of enactment of this Act.

17 **SEC. 2112. MODIFICATION OF 50/50 RULE.**

18 Section 102(a)(3) (20 U.S.C. 1002(a)(3)) is amend-
19 ed—

20 (1) in subparagraph (A), by inserting “(exclud-
21 ing courses offered by telecommunications as defined
22 in section 484(l)(4))” after “courses by correspond-
23 ence”; and

24 (2) in subparagraph (B), by inserting “(exclud-
25 ing courses offered by telecommunications as defined

1 in section 484(l)(4))” after “correspondence
2 courses”.

3 **SEC. 2113. REAUTHORIZATION OF FEDERAL FAMILY EDU-**
4 **CATION LOAN PROGRAM.**

5 (a) AUTHORIZATION OF APPROPRIATIONS.—Section
6 421(b)(5) (20 U.S.C. 1071(b)(5)) is amended by striking
7 “an administrative cost allowance” and inserting “a loan
8 processing and issuance fee”.

9 (b) EXTENSION OF AUTHORITY.—

10 (1) FEDERAL INSURANCE LIMITATIONS.—Sec-
11 tion 424(a) (20 U.S.C. 1074(a)) is amended—

12 (A) by striking “2004” and inserting
13 “2012”; and

14 (B) by striking “2008” and inserting
15 “2016”.

16 (2) GUARANTEED LOANS.—Section 428(a)(5)
17 (20 U.S.C. 1078(a)(5)) is amended—

18 (A) by striking “2004” and inserting
19 “2012”; and

20 (B) by striking “2008” and inserting
21 “2016”.

22 (3) CONSOLIDATION LOANS.—Section 428C(e)
23 (20 U.S.C. 1078–3(e)) is amended by striking
24 “2004” and inserting “2012”.

1 **SEC. 2114. LOAN LIMITS.**

2 (a) FEDERAL INSURANCE LIMITS.—Section
3 425(a)(1)(A) (20 U.S.C. 1075(a)(1)(A)) is amended—

4 (1) in clause (i)(I), by striking “\$2,625” and
5 inserting “\$3,500”; and

6 (2) in clause (ii)(I), by striking “\$3,500” and
7 inserting “\$4,500”.

8 (b) GUARANTEE LIMITS.—Section 428(b)(1)(A) (20
9 U.S.C. 1078(b)(1)(A)) is amended—

10 (1) in clause (i)(I), by striking “\$2,625” and
11 inserting “\$3,500”; and

12 (2) in clause (ii)(I), by striking “\$3,500” and
13 inserting “\$4,500”.

14 (c) COUNTING OF CONSOLIDATION LOANS AGAINST
15 LIMITS.—Section 428C(a)(3)(B) (20 U.S.C. 1078–
16 3(a)(3)(B)) is amended by adding at the end the following
17 new clause:

18 “(ii) Loans made under this section shall, to
19 the extent used to pay off the outstanding principal
20 balance on loans made under this title, excluding
21 capitalized interest, be counted against the applica-
22 ble limitations on aggregate indebtedness contained
23 in sections 425(a)(2), 428(b)(1)(B), 428H(d), 455,
24 and 464(a)(2)(B).”.

25 (d) EFFECTIVE DATE.—The amendments made by
26 this section shall apply with respect to any loan made, in-

1 sured, or guaranteed under part B or part D of title IV
 2 of the Higher Education Act of 1965 for which the first
 3 disbursement of principal is made on or after July 1,
 4 2007.

5 **SEC. 2115. INTEREST RATES AND SPECIAL ALLOWANCES.**

6 (a) FFEL INTEREST RATES.—Section 427A (20
 7 U.S.C. 1077a(k)) is amended—

8 (1) in subsection (k)—

9 (A) by striking “, AND BEFORE JULY 1,
 10 2006” in the heading of such subsection; and

11 (B) by striking “, and before July 1,
 12 2006,” each place it appears in paragraphs (1),
 13 (2), and (3);

14 (2) by striking subsection (l); and

15 (3) by redesignating subsections (m) and (n) as
 16 subsections (l) and (m), respectively.

17 (b) DIRECT LOAN INTEREST RATES.—Section
 18 455(b) (20 U.S.C. 1087e(b)) is amended—

19 (1) in paragraph (6)—

20 (A) by striking “, AND BEFORE JULY 1,
 21 2006” in the heading of such paragraph; and

22 (B) by striking “, and before July 1,
 23 2006,” each place it appears in subparagraphs
 24 (A), (B), and (C);

25 (2) by striking paragraph (7); and

1 (3) by redesignating paragraphs (8) and (9) as
2 paragraphs (7) and (8), respectively.

3 (c) CONSOLIDATION LOAN INTEREST RATES.—

4 (1) FFEL LOANS.—Section 427A(k) (20
5 U.S.C. 1077a(k)) is further amended—

6 (A) in the heading of paragraph (4), by in-
7 serting “BEFORE JULY 1, 2006” after “LOANS”;

8 (B) by redesignating paragraph (5) as
9 paragraph (6); and

10 (C) by inserting after paragraph (4) the
11 following:

12 “(5) CONSOLIDATION LOANS ON OR AFTER
13 JULY 1, 2006.—

14 “(A) BORROWER ELECTION.—With respect
15 to any consolidation loan under section 428C
16 for which the application is received by an eligi-
17 ble lender on or after July 1, 2006, the applica-
18 ble rate of interest shall, at the election of the
19 borrower at the time of application for the loan,
20 be either at the rate determined under subpara-
21 graph (B) or the rate determined under sub-
22 paragraph (C).

23 “(B) VARIABLE RATE.—Except as pro-
24 vided in subparagraph (D), the rate determined
25 under this subparagraph shall, during any 12-

1 month period beginning on July 1 and ending
2 on June 30, be determined on the preceding
3 June 1 and, for such 12-month period, not be
4 more than—

5 “(i) the bond equivalent rate of 91-
6 day Treasury bills auctioned at the final
7 auction held prior to such June 1; plus

8 “(ii) 2.3 percent,
9 except that such rate shall not exceed 8.25 per-
10 cent.

11 “(C) FIXED RATE.—Except as provided in
12 subparagraph (D), the rate determined under
13 this subparagraph shall be determined for the
14 duration of the term of the loan on the July 1
15 that is or precedes the date on which the appli-
16 cation is received by an eligible lender, and
17 shall be, for such duration, not more than—

18 “(i) the bond equivalent rate of 91-
19 day Treasury bills auctioned at the final
20 auction held prior to the June 1 imme-
21 diately preceding such July 1; plus

22 “(ii) 3.3 percent,
23 except that such rate shall not exceed 8.25 per-
24 cent.

1 “(D) CONSOLIDATION OF PLUS LOANS.—

2 In the case of any such consolidation loan that
3 is used to repay loans each of which was made
4 under section 428B or was a Federal Direct
5 PLUS Loan (or both), the rates determined
6 under clauses (B) and (C) shall be deter-
7 mined—

8 “(i) by substituting ‘3.1 percent’ for
9 ‘2.3 percent’;

10 “(ii) by substituting ‘4.1 percent’ for
11 ‘3.3 percent’; and

12 “(iii) by substituting ‘9.0 percent’ for
13 ‘8.25 percent’.”.

14 (2) DIRECT LOANS.—Section 455(b)(6) (20
15 U.S.C. 1087e(b)(6)) is further amended—

16 (A) in the heading of subparagraph (D),
17 by inserting “BEFORE JULY 1, 2006” after
18 “LOANS”

19 (B) by redesignating subparagraph (E) as
20 subparagraph (F); and

21 (C) by inserting after subparagraph (D)
22 the following:

23 “(E) CONSOLIDATION LOANS ON OR AFTER
24 JULY 1, 2006.—

1 “(i) BORROWER ELECTION.—Notwith-
2 standing the preceding paragraphs of this
3 subsection, with respect to any Federal Di-
4 rect Consolidation Loan for which the ap-
5 plication is received by the Secretary on or
6 after July 1, 2006, the applicable rate of
7 interest shall, at the election of the bor-
8 rower at the time of application for the
9 loan, be either at the rate determined
10 under clause (ii) or the rate determined
11 under clause (iii).

12 “(ii) VARIABLE RATE.—Except as
13 provided in clause (iv), the rate determined
14 under this clause shall, during any 12-
15 month period beginning on July 1 and
16 ending on June 30, be determined on the
17 preceding June 1 and, for such 12-month
18 period, be equal to—

19 “(I) the bond equivalent rate of
20 91-day Treasury bills auctioned at the
21 final auction held prior to such June
22 1; plus

23 “(II) 2.3 percent,
24 except that such rate shall not exceed 8.25
25 percent.

1 “(iii) FIXED RATE.—Except as pro-
2 vided in clause (iv), the rate determined
3 under this clause shall be determined for
4 the duration of the term of the loan on the
5 July 1 that is or precedes the date on
6 which the application is received by the
7 Secretary, and shall be, for such duration,
8 equal to—

9 “(I) the bond equivalent rate of
10 91-day Treasury bills auctioned at the
11 final auction held prior to the June 1
12 immediately preceding such July 1;
13 plus

14 “(II) 3.3 percent,
15 except that such rate shall not exceed 8.25
16 percent.

17 “(iv) CONSOLIDATION OF PLUS
18 LOANS.—In the case of any such Federal
19 Direct Consolidation Loan that is used to
20 repay loans each of which was made under
21 section 428B or was a Federal Direct
22 PLUS Loan (or both), the rates deter-
23 mined under clauses (ii) and (iii) shall be
24 determined—

1 “(I) by substituting ‘3.1 percent’
 2 for ‘2.3 percent’;
 3 “(II) by substituting ‘4.1 per-
 4 cent’ for ‘3.3 percent’; and
 5 “(III) by substituting ‘9.0 per-
 6 cent’ for ‘8.25 percent’.”.

7 (d) CONSOLIDATION LOAN CONFORMING AMEND-
 8 MENT.—Section 428C(c)(1)(A)(ii) (20 U.S.C. 1078–
 9 3(c)(1)(A)(ii)) is amended by striking “section
 10 427A(l)(3)” and inserting “section 427A(k)(5)”.

11 (e) CONFORMING AMENDMENTS FOR SPECIAL AL-
 12 LOWANCES.—

13 (1) AMENDMENT.—Subparagraph (I) of section
 14 438(b)(2) (20 U.S.C. 1087–1(b)(2)) is amended—

15 (A) by striking clause (ii) and inserting the
 16 following:

17 “(ii) IN SCHOOL AND GRACE PE-
 18 RIOD.—In the case of any loan for which
 19 the first disbursement is made on or after
 20 January 1, 2000, and for which the appli-
 21 cable interest rate is described in section
 22 427A(k)(2), clause (i)(III) of this subpara-
 23 graph shall be applied by substituting
 24 ‘1.74 percent’ for ‘2.34 percent’.”;

25 (B) in clause (iii),

1 (i) by striking “or (l)(2)”; and

2 (ii) by striking “, subject to clause (v)

3 of this subparagraph”;

4 (C) in clause (iv)—

5 (i) by striking “or (l)(3)” and insert-

6 ing “or (k)(5)”; and

7 (ii) by striking “, subject to clause

8 (vi) of this subparagraph”; and

9 (D) by striking clauses (v), (vi), and (vii)

10 and inserting the following:

11 “(v) RECAPTURE OF EXCESS INTER-

12 EST.—

13 “(I) EXCESS CREDITED.—With

14 respect to a loan on which the applica-

15 ble interest rate is determined under

16 section 427A(k) and for which the

17 first disbursement of principal is

18 made on or after July 1, 2006, if the

19 applicable interest rate for any 3-

20 month period exceeds the special al-

21 lowance support level applicable to

22 such loan under this subparagraph for

23 such period, then an adjustment shall

24 be made by calculating the excess in-

25 terest in the amount computed under

1 subclause (II) of this clause, and by
2 crediting the excess interest to the
3 Government not less often than annu-
4 ally.

5 “(II) CALCULATION OF EX-
6 CESS.—The amount of any adjust-
7 ment of interest on a loan to be made
8 under this subsection for any quarter
9 shall be equal to—

10 “(aa) the applicable interest
11 rate minus the special allowance
12 support level determined under
13 this subparagraph; multiplied by

14 “(bb) the average daily prin-
15 cipal balance of the loan (not in-
16 cluding unearned interest added
17 to principal) during such cal-
18 endar quarter; divided by

19 “(cc) four.

20 “(III) SPECIAL ALLOWANCE SUP-
21 PORT LEVEL.—For purposes of this
22 clause, the term ‘special allowance
23 support level’ means, for any loan, a
24 number expressed as a percentage
25 equal to the sum of the rates deter-

1 mined under subclauses (I) and (III)
2 of clause (i), and applying any substi-
3 tution rules applicable to such loan
4 under clauses (ii), (iii), and (iv) in de-
5 termining such sum.”.

6 (2) EFFECTIVE DATE.—The amendments made
7 by this subsection shall not apply with respect to
8 any special allowance payment made under section
9 438 of the Higher Education Act of 1965 (20 U.S.C
10 1087–1) before July 1, 2006.

11 **SEC. 2116. ADDITIONAL LOAN TERMS AND CONDITIONS.**

12 (a) FEDERAL DEFAULT FEES.—

13 (1) IN GENERAL.—Subparagraph (H) of section
14 428(b)(1) (20 U.S.C. 1078(b)(1)(H)) is amended to
15 read as follows:

16 “(H) provides—

17 “(i) for loans for which the first dis-
18 bursement of principal is made before
19 July, 1, 2006, for the collection of a single
20 insurance premium equal to not more than
21 1.0 percent of the principal amount of the
22 loan, by deduction proportionately from
23 each installment payment of the proceeds
24 of the loan to the borrower, and ensures
25 that the proceeds of the premium will not

1 be used for incentive payments to lenders;
2 or

3 “(ii) for loans for which the first dis-
4bursement of principal is made on or after
5 July 1, 2006, for the collection and deposit
6 into the Federal Student Loan Reserve
7 Fund under section 422A of a Federal de-
8 fault fee of 1.0 percent of the principal
9 amount of such loan, which shall be de-
10 ducted proportionately from each install-
11 ment payment of the proceeds of the loan
12 to the borrower prior to payment to the
13 borrower, and ensures that the proceeds of
14 the Federal default fee will not be used for
15 incentive payments to lenders;”.

16 (2) UNSUBSIDIZED LOANS.—Section 428H(h)
17 (20 U.S.C. 1078–8(h)) is amended by adding at the
18 end the following new sentence: “Effective for loans
19 for which the first disbursement of principal is made
20 on or after July 1, 2006, in lieu of the insurance
21 premium authorized under the preceding sentence,
22 each State or nonprofit private institution or organi-
23 zation having an agreement with the Secretary
24 under section 428(b)(1) shall collect and deposit into
25 the Federal Student Loan Reserve Fund under sec-

tion 422A a Federal default fee of 1.0 percent of the principal amount of the loan, obtained by deduction proportionately from each installment payment of the proceeds of the loan to the borrower. The Federal default fee shall not be used for incentive payments to lenders.”.

(3) VOLUNTARY FLEXIBLE AGREEMENTS.—Section 428A(a)(1) (20 U.S.C. 1078–1(a)(1)) is amended—

(A) by striking “or” at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting “; or”; and

(C) by adding at the end the following new subparagraph:

“(C) the Federal default fee required by section 428(b)(1)(H) and the second sentence of section 428H(h).”.

(b) DISBURSEMENT.—Section 428(b)(1)(N) (20 U.S.C. 1078(b)(1)(N)) is amended—

(1) in clause (i), by inserting “(including an eligible foreign institution, except as provided in clause (ii))” after “institution”; and

(2) in clause (ii), by striking “or at an eligible foreign institution”.

1 (c) REPAYMENT PLANS.—

2 (1) FFEL LOANS.—Section 428(b)(9)(A) (20
3 U.S.C. 1078(b)(9)(A)) is amended—

4 (A) by inserting before the semicolon at
5 the end of clause (ii) the following: “, and the
6 Secretary may not restrict the proportions or
7 ratios by which such payments may be grad-
8 uated with the informed agreement of the bor-
9 rower”;

10 (B) by striking “and” at the end of clause
11 (iii);

12 (C) by redesignating clause (iv) as clause
13 (v); and

14 (D) by inserting after clause (iii) the fol-
15 lowing new clause:

16 “(iv) a delayed repayment plan under
17 which the borrower makes scheduled pay-
18 ments for not more than 2 years that are
19 annually not less than the amount of inter-
20 est due or \$600, whichever is greater, and
21 then makes payments in accordance with
22 clause (i), (ii), or (iii); and”.

23 (2) DIRECT LOANS.—Section 455(d)(1) (20
24 U.S.C. 1087e(d)(1)) is amended—

1 (A) by redesignating subparagraph (D) as
2 subparagraph (E); and

3 (B) by striking subparagraphs (A), (B),
4 and (C) and inserting the following:

5 “(A) a standard repayment plan, con-
6 sistent with subsection (a)(1) of this section
7 and with section 428(b)(9)(A)(i);

8 “(B) a graduated repayment plan, con-
9 sistent with section 428(b)(9)(A)(ii);

10 “(C) an extended repayment plan, con-
11 sistent with section 428(b)(9)(A)(v), except that
12 the borrower shall annually repay a minimum
13 amount determined by the Secretary in accord-
14 ance with section 428(b)(1)(L);

15 “(D) a delayed repayment plan under
16 which the borrower makes scheduled payments
17 for not more than 2 years that are annually not
18 less than the amount of interest due or \$600,
19 whichever is greater, and then makes payments
20 in accordance with subparagraph (A), (B), or
21 (C); and”.

22 (d) ORIGINATION FEES.—

23 (1) FFEL PROGRAM.—Paragraph (2) of section
24 438(c) (20 U.S.C. 1087–1(c)) is amended—

1 (A) by striking the designation and head-
2 ing of such paragraph and inserting the fol-
3 lowing:

4 “(2) AMOUNT OF ORIGINATION FEES.—

5 “(A) IN GENERAL.—”; and

6 (B) by adding at the end the following new
7 subparagraph:

8 “(B) SUBSEQUENT REDUCTIONS.—Sub-
9 paragraph (A) shall be applied to loans made
10 under this part (other than loans made under
11 sections 428C and 439(o))—

12 “(i) by substituting ‘2.0 percent’ for
13 ‘3.0 percent’ with respect to loans for
14 which the first disbursement of principal is
15 made on or after July 1, 2006, and before
16 July 1, 2007;

17 “(ii) by substituting ‘1.5 percent’ for
18 ‘3.0 percent’ with respect to loans for
19 which the first disbursement of principal is
20 made on or after July 1, 2007, and before
21 July 1, 2008;

22 “(iii) by substituting ‘1.0 percent’ for
23 ‘3.0 percent’ with respect to loans for
24 which the first disbursement of principal is

1 made on or after July 1, 2008, and before
2 July 1, 2009;

3 “(iv) by substituting ‘0.5 percent’ for
4 ‘3.0 percent’ with respect to loans for
5 which the first disbursement of principal is
6 made on or after July 1, 2009, and before
7 July 1, 2010; and

8 “(v) by substituting ‘0.0 percent’ for
9 ‘3.0 percent’ with respect to loans for
10 which the first disbursement of principal is
11 made on or after July 1, 2010.”.

12 (2) DIRECT LOAN PROGRAM.—Subsection (c) of
13 section 455 (20 U.S.C. 1087e(c)) is amended to
14 read as follows:

15 “(c) LOAN FEE.—

16 “(1) IN GENERAL.—The Secretary shall charge
17 the borrower of a loan made under this part an
18 origination fee of 4.0 percent of the principal
19 amount of loan.

20 “(2) SUBSEQUENT REDUCTION.—Paragraph
21 (1) shall be applied to loans made under this part,
22 other than Federal Direct Consolidation loans and
23 Federal Direct PLUS loans—

24 “(A) by substituting ‘not more or less than
25 3.0 percent’ for ‘4.0 percent’ with respect to

1 loans for which the first disbursement of prin-
2 cipal is made on or after July 1, 2006, and be-
3 fore July 1, 2007;

4 “(B) by substituting ‘not more or less than
5 2.5 percent’ for ‘4.0 percent’ with respect to
6 loans for which the first disbursement of prin-
7 cipal is made on or after July 1, 2007, and be-
8 fore July 1, 2008;

9 “(C) by substituting ‘not more or less than
10 2.0 percent’ for ‘4.0 percent’ with respect to
11 loans for which the first disbursement of prin-
12 cipal is made on or after July 1, 2008, and be-
13 fore July 1, 2009;

14 “(D) by substituting ‘not more or less than
15 1.5 percent’ for ‘4.0 percent’ with respect to
16 loans for which the first disbursement of prin-
17 cipal is made on or after July 1, 2009, and be-
18 fore July 1, 2010; and

19 “(E) by substituting ‘not more or less than
20 1.0 percent’ for ‘4.0 percent’ with respect to
21 loans for which the first disbursement of prin-
22 cipal is made on or after July 1, 2010.

23 “(3) WAIVERS AND REPAYMENT INCENTIVES
24 PROHIBITED.—Beginning with loans made on or
25 after July 1, 2006, the Secretary is prohibited—

1 “(A) from waiving any amount of the loan
2 fee prescribed under this section as part of a
3 repayment incentive in section 455(b)(7); and

4 “(B) from providing any repayment incen-
5 tive before the borrower enters repayment.”.

6 (e) CONSOLIDATION LOAN OFFSET CHARGE.—

7 (1) FFEL CONSOLIDATION LOANS.—Section
8 438(c) (20 U.S.C. 1087–1(c)) is further amended—

9 (A) in paragraph (1)(A), by inserting after
10 “paragraph (2) of this subsection” the fol-
11 lowing: “and the amount the lender is author-
12 ized to collect as a consolidation loan offset
13 charge in accordance with paragraph (9) of this
14 subsection”;

15 (B) in paragraph (1)(B)—

16 (i) by inserting “and the consolidation
17 loan offset charge” after “origination fee”;
18 and

19 (ii) by inserting “and consolidation
20 loan offset charges” after “origination
21 fees”;

22 (C) in paragraphs (3) and (4), by inserting
23 “and consolidation loan offset charge” after
24 “origination fee” each place it appears;

25 (D) in paragraph (5)—

1 (i) by inserting “or consolidation loan
2 offset charge” after “origination fee”; and

3 (ii) by inserting “or consolidation loan
4 offset charges” after “origination fees”;

5 (E) in paragraph (7)—

6 (i) by inserting “and consolidation
7 loan offset charges” after “origination
8 fees”; and

9 (ii) by striking “428A or”; and

10 (F) by adding at the end the following new
11 paragraph:

12 “(9) CONSOLIDATION LOAN OFFSET CHARGE.—

13 For any loan under section 428C, the lender is au-
14 thorized to collect a consolidation loan offset charge
15 in an amount not to exceed 1.0 percent of the prin-
16 cipal amount of the loan. Such amount may be
17 added to the principal amount of the loan for repay-
18 ment by the borrower.”.

19 (2) DIRECT LOANS.—Section 455(c) (20 U.S.C.
20 1087e(c)), as amended by subsection (d)(2) of this
21 section, is further amended by adding at the end the
22 following new paragraph:

23 “(4) CONSOLIDATION LOAN OFFSET
24 CHARGES.—For any Federal Direct Consolidation
25 Loan, the Secretary shall collect a consolidation loan

1 offset charge in an amount not more or less than
2 1.0 percent of the principal amount of the loan.
3 Such amount may be added to the principal amount
4 of the loan for repayment by the borrower. Such
5 amount is not subject to the requirements of para-
6 graph (3) of this subsection.”.

7 **SEC. 2117. CONSOLIDATION LOAN CHANGES.**

8 (a) CROSS-CONSOLIDATION BETWEEN PROGRAMS.—
9 Section 428C (20 U.S.C. 1078–3) is amended—

10 (1) in subsection (a)(3)(B)(i)—

11 (A) by inserting “or under section 455(g)”
12 after “under this section” both places it ap-
13 pears;

14 (B) by inserting “under both sections”
15 after “terminates”

16 (C) by striking “and” at the end of sub-
17 clause (III);

18 (D) by striking the period at the end of
19 subclause (IV) and inserting “; and”; and

20 (E) by adding at the end the following new
21 subclause:

22 “(V) an individual may obtain a subse-
23 quent consolidation loan under section 455(g)
24 only for the purposes of obtaining an income
25 contingent repayment plan, and only if the loan

1 has been submitted to the guaranty agency for
2 default aversion.”; and

3 (2) in subsection (b)(5), by striking the first
4 sentence and inserting the following: “In the event
5 that a lender with an agreement under subsection
6 (a)(1) of this section denies a consolidation loan ap-
7 plication submitted to it by an eligible borrower
8 under this section, or denies an application sub-
9 mitted to it by such a borrower for a consolidation
10 loan with income-sensitive repayment terms, the Sec-
11 retary shall offer any such borrower who applies for
12 it, a Federal Direct Consolidation loan. The Sec-
13 retary shall offer such a loan to a borrower who has
14 defaulted, for the purpose of resolving the default.”.

15 (b) REPEAL OF IN-SCHOOL CONSOLIDATION.—

16 (1) DEFINITION OF REPAYMENT PERIOD.—Sec-
17 tion 428(b)(7)(A) (20 U.S.C. 1078(b)(7)(A)) is
18 amended by striking “shall begin—” and all that
19 follows through “earlier date.” and inserting the fol-
20 lowing: “shall begin the day after 6 months after the
21 date the student ceases to carry at least one-half the
22 normal full-time academic workload (as determined
23 by the institution).”.

24 (2) CONFORMING CHANGE TO ELIGIBLE BOR-
25 ROWER DEFINITION.—Section 428C(a)(3)(A)(ii)(I)

1 (20 U.S.C. 1078–3(a)(3)(A)(ii)(I)) is amended by
2 inserting “as determined under section
3 428(b)(7)(A)” after “repayment status”.

4 (c) INTEREST PAYMENT REBATE FEE.—Section
5 428C(f)(2) (20 U.S.C. 1078–2(f)(2)) is amended—

6 (1) by striking “SPECIAL RULE.—” and insert-
7 ing “SPECIAL RULES.—(A)”; and

8 (2) by adding at the end the following new sub-
9 paragraph:

10 “(B) For consolidation loans based on applica-
11 tions received on or after July 1, 2006, if 90 percent
12 or more of the total principal and accrued unpaid in-
13 terest outstanding on the loans held, directly or indi-
14 rectly, by any holder is comprised of principal and
15 accrued unpaid interest owed on consolidation loans,
16 the rebate described in paragraph (1) for such hold-
17 er shall be equal to 1.30 percent of the principal
18 plus accrued unpaid interest on such loans.”.

19 (d) ADDITIONAL AMENDMENTS.—Section 428C (20
20 U.S.C. 1078–3) is amended—

21 (1) in subsection (a)(3), by striking subpara-
22 graph (C); and

23 (2) in subsection (b)(1)—

24 (A) by striking everything after “under
25 this section” the first place it appears in sub-

1 paragraph (A) and inserting the following: “and
2 that, if all the borrower’s loans under this part
3 are held by a single holder, the borrower has
4 notified such holder that the borrower is seek-
5 ing to obtain a consolidation loan under this
6 section;”;

7 (B) by striking “(i) which” and all that
8 follows through “and (ii)” in subparagraph (C);

9 (C) by striking “and” at the end of sub-
10 paragraph (E);

11 (D) by redesignating subparagraph (F) as
12 subparagraph (G); and

13 (E) by inserting after subparagraph (E)
14 the following new subparagraph:

15 “(F) that the lender of the consolidation
16 loan shall, upon application for such loan, pro-
17 vide the borrower with a clear and conspicuous
18 notice of at least the following information:

19 “(i) the effects of consolidation on
20 total interest to be paid, fees to be paid,
21 and length of repayment;

22 “(ii) the effects of consolidation on a
23 borrower’s underlying loan benefits, includ-
24 ing loan forgiveness, cancellation,

1 deferment, and reduced interest rates on
2 those underlying loans;

3 “(iii) the ability of the borrower to
4 prepay the loan, pay on a shorter schedule,
5 and to change repayment plans;

6 “(iv) that borrower benefit programs
7 may vary among different loan holders,
8 and a description of how the borrower ben-
9 efits may vary among different loan hold-
10 ers;

11 “(v) the tax benefits for which bor-
12 rowers may be eligible;

13 “(vi) the consequences of default; and

14 “(vii) that by making the application
15 the applicant is not obligated to agree to
16 take the consolidation loan; and”.

17 (e) EFFECTIVE DATE FOR SINGLE HOLDER AMEND-
18 MENT.—The amendment made by subsection (d)(2)(A)
19 shall apply with respect to any loan made under section
20 428C of the Higher Education Act of 1965 (20 U.S.C.
21 1078–3) for which the application is received by an eligible
22 lender on or after July 1, 2006.

23 (f) CONFORMING AMENDMENTS TO DIRECT LOAN
24 PROGRAM.—Section 455 (20 U.S.C. 1087e) is amended

1 (1) in subsection (a)(1) by inserting “428C,”
 2 after “428B,”;

3 (2) in subsection (a)(2)—

4 (A) by striking “and” at the end of sub-
 5 paragraph (B);

6 (B) by redesignating subparagraph (C) as
 7 subparagraph (D); and

8 (C) by inserting after subparagraph (B)
 9 the following:

10 “(C) section 428C shall be known as ‘Fed-
 11 eral Direct Consolidation Loans’; and ”; and

12 (3) in subsection (g)—

13 (A) by striking the second sentence; and

14 (B) by adding at the end the following new
 15 sentences: “To be eligible for a consolidation
 16 loan under this part, a borrower must meet the
 17 eligibility criteria set forth in section
 18 428C(a)(3). The Secretary, upon application for
 19 such a loan, shall comply with the requirements
 20 applicable to a lender under section
 21 428C(b)(1)(F).”.

22 **SEC. 2118. DEFERMENT OF STUDENT LOANS FOR MILITARY**
 23 **SERVICE.**

24 (a) **FEDERAL FAMILY EDUCATION LOANS.**—Section
 25 428(b)(1)(M) (20 U.S.C. 1078(b)(1)(M)) is amended—

1 (1) by striking “or” at the end of clause (ii);

2 (2) by redesignating clause (iii) as clause (iv);

3 and

4 (3) by inserting after clause (ii) the following

5 new clause:

6 “(iii) not in excess of 3 years during

7 which the borrower—

8 “(I) is serving on active duty

9 during a war or other military oper-

10 ation or national emergency; or

11 “(II) is performing qualifying

12 National Guard duty during a war or

13 other military operation or national

14 emergency; or”.

15 (b) DIRECT LOANS.—Section 455(f)(2) (20 U.S.C.

16 1087e(f)(2)) is amended—

17 (1) by redesignating subparagraph (C) as sub-

18 paragraph (D); and

19 (2) by inserting after subparagraph (B) the fol-

20 lowing new subparagraph:

21 “(C) not in excess of 3 years during which

22 the borrower—

23 “(i) is serving on active duty during a

24 war or other military operation or national

25 emergency; or

1 “(ii) is performing qualifying National
2 Guard duty during a war or other military
3 operation or national emergency; or”.

4 (c) PERKINS LOANS.—Section 464(c)(2)(A) (20
5 U.S.C. 1087dd(c)(2)(A)) is amended—

6 (1) by redesignating clauses (iii) and (iv) as
7 clauses (iv) and (v), respectively; and

8 (2) by inserting after clause (ii) the following
9 new clause:

10 “(iii) not in excess of 3 years during which the
11 borrower—

12 “(I) is serving on active duty during a war
13 or other military operation or national emer-
14 gency; or

15 “(II) is performing qualifying National
16 Guard duty during a war or other military op-
17 eration or national emergency;”.

18 (d) DEFINITIONS.—Section 481 (20 U.S.C. 1088) is
19 amended by adding at the end the following new sub-
20 section:

21 “(d) DEFINITIONS FOR MILITARY DEFERMENTS.—
22 For purposes of parts B, D, and E of this title:

23 “(1) ACTIVE DUTY.—The term ‘active duty’ has
24 the meaning given such term in section 101(d)(1) of
25 title 10, United States Code, except that such term

1 does not include active duty for training or attend-
2 ance at a service school.

3 “(2) MILITARY OPERATION.—The term ‘mili-
4 tary operation’ means a contingency operation as
5 such term is defined in section 101(a)(13) of title
6 10, United States Code.

7 “(3) NATIONAL EMERGENCY.—The term ‘na-
8 tional emergency’ means the national emergency by
9 reason of certain terrorist attacks declared by the
10 President on September 14, 2001, or subsequent na-
11 tional emergencies declared by the President by rea-
12 son of terrorist attacks.

13 “(4) SERVING ON ACTIVE DUTY.—The term
14 ‘serving on active duty during a war or other mili-
15 tary operation or national emergency’ means service
16 by an individual who is—

17 “(A) a Reserve of an Armed Force ordered
18 to active duty under section 12301(a),
19 12301(g), 12302, 12304, or 12306 of title 10,
20 United States Code, or any retired member of
21 an Armed Force ordered to active duty under
22 section 688 of such title, for service in connec-
23 tion with a war or other military operation or
24 national emergency, regardless of the location

1 at which such active duty service is performed;
2 and

3 “(B) any other member of an Armed Force
4 on active duty in connection with such emer-
5 gency or subsequent actions or conditions who
6 has been assigned to a duty station at a loca-
7 tion other than the location at which such mem-
8 ber is normally assigned.

9 “(5) QUALIFYING NATIONAL GUARD DUTY.—
10 The term ‘qualifying National Guard duty during a
11 war or other military operation or national emer-
12 gency’ means service as a member of the National
13 Guard on full-time National Guard duty (as defined
14 in section 101(d)(5) of title 10, United States Code)
15 under a call to active service authorized by the
16 President or the Secretary of Defense for a period
17 of more than 30 consecutive days under section
18 502(f) of title 32, United States Code, in connection
19 with a war, other military operation, or a national
20 emergency declared by the President and supported
21 by Federal funds.”.

22 (e) RULE OF CONSTRUCTION.—Nothing in the
23 amendments made by this section shall be construed to
24 authorize any refunding of any repayment of a loan.

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to loans for which the
3 first disbursement is made on or after July 1, 1993, to
4 an individual who is a new borrower (within the meaning
5 of section 103 of the Higher Education Act of 1965 (20
6 U.S.C. 1003)) on or after such date.

7 **SEC. 2119. LOAN FORGIVENESS FOR SERVICE IN AREAS OF**
8 **NATIONAL NEED.**

9 Section 428K (20 U.S.C. 1078–11) is amended to
10 read as follows:

11 **“SEC. 428K. LOAN FORGIVENESS FOR SERVICE IN AREAS OF**
12 **NATIONAL NEED.**

13 “(a) PURPOSES.—The purposes of this section are—

14 “(1) to encourage highly trained individuals to
15 enter and continue in service in areas of national
16 need; and

17 “(2) to reduce the burden of student debt for
18 Americans who dedicate their careers to service in
19 areas of national need.

20 “(b) PROGRAM AUTHORIZED.—

21 “(1) IN GENERAL.—The Secretary is authorized
22 to carry out a program of assuming the obligation
23 to repay, pursuant to subsections (c)(2) and (d), a
24 qualified loan amount for a loan made, insured, or
25 guaranteed under this part or part D (other than

1 loans made under section 428B and 428C and com-
2 parable loans made under part D), for any new bor-
3 rower after the date of enactment of the Higher
4 Education Budget Reconciliation Act of 2005,
5 who—

6 “(A) has been employed full-time for at
7 least 5 consecutive complete school, academic,
8 or calendar years, as appropriate, in an area of
9 national need described in subsection (c); and

10 “(B) is not in default on a loan for which
11 the borrower seeks forgiveness.

12 “(2) AWARD BASIS.—Loan repayment under
13 this section shall be on a first-come, first-served
14 basis pursuant to the designation under subsection
15 (c) and subject to the availability of appropriations.

16 “(3) REGULATIONS.—The Secretary is author-
17 ized to issue such regulations as may be necessary
18 to carry out the provisions of this section.

19 “(c) AREAS OF NATIONAL NEED.—

20 “(1) STATUTORY CATEGORIES.—For purposes
21 of this section, an individual shall be treated as em-
22 ployed in an area of national need if the individual
23 is employed full-time and is any of the following:

24 “(A) EARLY CHILDHOOD EDUCATORS.—An
25 individual who is employed as an early child-

1 hood educator in an eligible preschool program
2 or child care facility in a low-income commu-
3 nity, and who is involved directly in the care,
4 development and education of infants, toddlers,
5 or young children through age five.

6 “(B) NURSES.—An individual who is em-
7 ployed—

8 “(i) as a nurse in a clinical setting; or

9 “(ii) as a member of the nursing fac-
10 ulty at an accredited school of nursing (as
11 those terms are defined in section 801 of
12 the Public Health Service Act (42 U.S.C.
13 296)).

14 “(C) FOREIGN LANGUAGE SPECIALISTS.—
15 An individual who has obtained a baccalaureate
16 degree in a critical foreign language and is em-
17 ployed—

18 “(i) in an elementary or secondary
19 school as a teacher of a critical foreign lan-
20 guage; or

21 “(ii) in an agency of the United
22 States Government in a position that regu-
23 larly requires the use of such critical for-
24 eign language.

1 “(D) LIBRARIANS.—An individual who is
2 employed as a librarian in—

3 “(i) a public library that serves a geo-
4 graphic area within which the public
5 schools have a combined average of 30 per-
6 cent or more of their total student enroll-
7 ments composed of children counted under
8 section 1113(a)(5) of the Elementary and
9 Secondary Education Act of 1965; or

10 “(ii) an elementary or secondary
11 school which is in the school district of a
12 local educational agency which is eligible in
13 such year for assistance pursuant to title I
14 of the Elementary and Secondary Edu-
15 cation Act of 1965, and which for the pur-
16 pose of this paragraph and for that year
17 has been determined by the Secretary
18 (pursuant to regulations and after con-
19 sultation with the State educational agency
20 of the State in which the school is located)
21 to be a school in which the enrollment of
22 children counted under section 1113(a)(5)
23 of the Elementary and Secondary Edu-
24 cation Act of 1965 exceeds 30 percent of
25 the total enrollment of that school.

1 “(E) HIGHLY QUALIFIED TEACHERS: BI-
2 LINGUAL EDUCATION AND LOW-INCOME COM-
3 MUNITIES.—An individual who—

4 “(i) is highly qualified as such term is
5 defined in section 9101 of the Elementary
6 and Secondary Education Act of 1965; and

7 “(ii)(I) is employed as a teacher of bi-
8 lingual education; or

9 “(II) is employed as a teacher for
10 service in a public or nonprofit private ele-
11 mentary or secondary school which is in
12 the school district of a local educational
13 agency which is eligible in such year for
14 assistance pursuant to title I of the Ele-
15 mentary and Secondary Education Act of
16 1965, and which for the purpose of this
17 paragraph and for that year has been de-
18 termined by the Secretary (pursuant to
19 regulations and after consultation with the
20 State educational agency of the State in
21 which the school is located) to be a school
22 in which the enrollment of children counted
23 under section 1113(a)(5) of the Elemen-
24 tary and Secondary Education Act of 1965

1 exceeds 40 percent of the total enrollment
2 of that school.

3 “(F) FIRST RESPONDERS IN LOW-INCOME
4 COMMUNITIES.—An individual who—

5 “(i) is employed as a firefighter, police
6 officer, or emergency medical technician;
7 and

8 “(ii) serves as such in a low-income
9 community.

10 “(G) CHILD WELFARE WORKERS.—An in-
11 dividual who—

12 “(i) has obtained a degree in social
13 work or a related field with a focus on
14 serving children and families; and

15 “(ii) is employed in public or private
16 child welfare services.

17 “(H) SPEECH-LANGUAGE PATHOLO-
18 GISTS.—An individual who is a speech-language
19 pathologist, who is employed in an eligible pre-
20 school program or an elementary or secondary
21 school, and who has, at a minimum, a graduate
22 degree in speech-language pathology, or com-
23 munication sciences and disorders.

24 “(I) ADDITIONAL AREAS OF NATIONAL
25 NEED.—An individual who is employed in an

1 area designated by the Secretary under para-
2 graph (2) and has completed a baccalaureate or
3 advanced degree related to such area.

4 “(2) DESIGNATION OF ADDITIONAL AREAS OF
5 NATIONAL NEED.—After consultation with appro-
6 priate Federal, State, and community-based agencies
7 and organizations, the Secretary shall designate ad-
8 ditional areas of national need in which an indi-
9 vidual may be employed full-time to be eligible for
10 loan repayment under this section. In making such
11 designations, the Secretary shall take into account
12 the extent to which—

13 “(A) the national interest in the area is
14 compelling;

15 “(B) the area suffers from a critical lack
16 of qualified personnel; and

17 “(C) other Federal programs support the
18 area concerned.

19 “(d) QUALIFIED LOAN AMOUNT.—Subject to the
20 availability of appropriations, the Secretary shall repay
21 not more than \$5,000 in the aggregate of the loan obliga-
22 tion on a loan made under section 428 or 428H that is
23 outstanding after the completion of the fifth consecutive
24 school, academic, or calendar year, as appropriate, de-
25 scribed in subsection (b)(1).

1 “(e) CONSTRUCTION.—Nothing in this section shall
2 be construed to authorize the refunding of any repayment
3 of a loan made under section 428 or 428H.

4 “(f) INELIGIBILITY OF NATIONAL SERVICE AWARD
5 RECIPIENTS.—No student borrower may, for the same
6 service, receive a benefit under both this section and sub-
7 title D of title I of the National and Community Service
8 Act of 1990 (42 U.S.C. 12601 et seq.).

9 “(g) INELIGIBILITY FOR DOUBLE BENEFITS.—No
10 borrower may receive a reduction of loan obligations under
11 both this section and section 428J or 460.

12 “(h) DEFINITIONS.—In this section

13 “(1) CHILD CARE FACILITY.—The term ‘child
14 care facility’ means a facility, including a home,
15 that—

16 “(A) provides for the education and care of
17 children from birth through age 5; and

18 “(B) meets any applicable State or local
19 government licensing, certification, approval, or
20 registration requirements.

21 “(2) CRITICAL FOREIGN LANGUAGE.—The term
22 ‘critical foreign language’ includes the languages of
23 Arabic, Korean, Japanese, Chinese, Pashto, Persian-
24 Farsi, Serbian-Croatian, Russian, Portuguese, and
25 any other language identified by the Secretary of

1 Education, in consultation with the Defense Lan-
2 guage Institute, the Foreign Service Institute, and
3 the National Security Education Program, as a crit-
4 ical foreign language need.

5 “(3) EARLY CHILDHOOD EDUCATOR.—The
6 term ‘early childhood educator’ means an early
7 childhood educator employed in an eligible preschool
8 program who has completed a baccalaureate or ad-
9 vanced degree in early childhood development, early
10 childhood education, or in a field related to early
11 childhood education.

12 “(4) ELIGIBLE PRESCHOOL PROGRAM.—The
13 term ‘eligible preschool program’ means a program
14 that provides for the care, development, and edu-
15 cation of infants, toddlers, or young children
16 through age 5, meets any applicable State or local
17 government licensing, certification, approval, and
18 registration requirements, and is operated by—

19 “(A) a public or private school that may be
20 supported, sponsored, supervised, or adminis-
21 tered by a local educational agency;

22 “(B) a Head Start agency serving as a
23 grantee designated under the Head Start Act
24 (42 U.S.C. 9831 et seq.);

1 “(C) a nonprofit or community based orga-
2 nization; or

3 “(D) a child care program, including a
4 home.

5 “(5) LOW-INCOME COMMUNITY.—In this sub-
6 section, the term ‘low-income community’ means a
7 community in which 70 percent of households earn
8 less than 85 percent of the State median household
9 income.

10 “(6) NURSE.—The term ‘nurse’ means a nurse
11 who meets all of the following:

12 “(A) The nurse graduated from—

13 “(i) an accredited school of nursing
14 (as those terms are defined in section 801
15 of the Public Health Service Act (42
16 U.S.C. 296));

17 “(ii) a nursing center; or

18 “(iii) an academic health center that
19 provides nurse training.

20 “(B) The nurse holds a valid and unre-
21 stricted license to practice nursing in the State
22 in which the nurse practices in a clinical set-
23 ting.

24 “(C) The nurse holds one or more of the
25 following:

1 “(i) A graduate degree in nursing, or
2 an equivalent degree.

3 “(ii) A nursing degree from a colle-
4 giate school of nursing (as defined in sec-
5 tion 801 of the Public Health Service Act
6 (42 U.S.C. 296)).

7 “(iii) A nursing degree from an asso-
8 ciate degree school of nursing (as defined
9 in section 801 of the Public Health Service
10 Act (42 U.S.C. 296)).

11 “(iv) A nursing degree from a diploma
12 school of nursing (as defined in section
13 801 of the Public Health Service Act (42
14 U.S.C. 296)).

15 “(7) SPEECH-LANGUAGE PATHOLOGIST.—The
16 term ‘speech-language pathologist’ means a speech-
17 language pathologist who meets all of the following:

18 “(A) the speech-language pathologist has
19 received, at a minimum, a graduate degree in
20 speech-language pathology or communication
21 sciences and disorders from an institution of
22 higher education accredited by an agency or as-
23 sociation recognized by the Secretary pursuant
24 to section 496(a) of this Act; and

1 “(B) the speech-language pathologist
 2 meets or exceeds the qualifications described in
 3 section 1861(ll)(3) of the Social Security Act
 4 (42 U.S.C. 1395x(3)).

5 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
 6 are authorized to be appropriated to carry out this section
 7 such sums as may be necessary for fiscal year 2006 and
 8 such sums as may be necessary for each of the 5 suc-
 9 ceeding fiscal years.”.

10 **SEC. 2120. UNSUBSIDIZED STAFFORD LOANS.**

11 (a) AMENDMENT.—Section 428H(d)(2)(C) (20
 12 U.S.C. 1078–8(d)(2)(C)) is amended by striking
 13 “\$10,000” and inserting “\$12,000”.

14 (b) EFFECTIVE DATE.—The amendment made by
 15 subsection (a) shall apply to loans for which the first dis-
 16 bursement of principal is made on or after July 1, 2007.

17 **SEC. 2121. ELIMINATION OF TERMINATION DATES FROM**
 18 **TAXPAYER-TEACHER PROTECTION ACT OF**
 19 **2004.**

20 (a) EXTENSION OF LIMITATIONS ON SPECIAL AL-
 21 LOWANCE FOR LOANS FROM THE PROCEEDS OF TAX EX-
 22 EMPT ISSUES.—Section 438(b)(2)(B) (20 U.S.C. 1087–
 23 1(b)(2)(B)) is amended—

24 (1) in clause (iv), by striking “and before Janu-
 25 ary 1, 2006,”; and

1 (2) in clause (v)(II)—

2 (A) by striking “and before January 1,
3 2006,” each place it appears in divisions (aa)
4 and (bb); and

5 (B) by striking “, and before January 1,
6 2006” in division (cc).

7 (b) ADDITIONAL LIMITATION ON SPECIAL ALLOW-
8 ANCE FOR LOANS FROM THE PROCEEDS OF TAX EXEMPT
9 ISSUES.—Section 438(b)(2)(B) (20 U.S.C. 1087–
10 1(b)(2)(B)) is further amended by adding at the end
11 thereof the following new clause:

12 “(vi) Notwithstanding clauses (i), (ii), and (v),
13 the quarterly rate of the special allowance shall be
14 the rate determined under subparagraph (A), (E),
15 (F), (G), (H), or (I) of this paragraph, as the case
16 may be, for a holder of loans—

17 “(I) that were made or purchased on or
18 after October 1, 2005; or

19 “(II) that were not earning a quarterly
20 rate of special allowance determined under
21 clauses (i) or (ii) of subparagraph (B) of this
22 paragraph (20 U.S.C. 1087–1(b)(2)(b)) as of
23 October 1, 2005.”.

24 (c) ELIMINATION OF EFFECTIVE DATE LIMITATION
25 ON HIGHER TEACHER LOAN FORGIVENESS BENEFITS.—

1 Paragraph (3) of section 3(b) of the Taxpayer-Teacher
 2 Protection Act of 2004 (20 U.S.C. 1078–10 note) is
 3 amended by striking “, and before October 1, 2005”.

4 (d) ADDITIONAL CHANGES TO TEACHER LOAN FOR-
 5 GIVENESS PROVISIONS.—

6 (1) FFEL PROVISIONS.—Section 428J (20
 7 U.S.C. 1078–10) is amended—

8 (A) in subsection (b)(1)(B), by inserting
 9 after “1965” the following: “, or meets the re-
 10 quirements of subsection (g)(3)”;

11 (B) in subsection (c)(3)—

12 (i) by striking “and” at the end of
 13 subparagraph (A);

14 (ii) by striking the period at the end
 15 of subparagraph (B) and inserting “;
 16 and”; and

17 (iii) by inserting after subparagraph
 18 (B) the following new subparagraph:

19 “(C) an elementary or secondary school
 20 teacher who primarily teaches reading—

21 “(i) who meets the requirements of
 22 subsection (b);

23 “(ii) who has obtained a separate
 24 reading instruction credential from the

1 State in which the teacher is employed;
2 and

3 “(iii) who is certified by the chief ad-
4 ministrative officer of the public or non-
5 profit private elementary or secondary
6 school in which the borrower is employed
7 to teach reading—

8 “(I) as being proficient in teach-
9 ing the essential components of read-
10 ing instruction as defined in section
11 1208 of the Elementary and Sec-
12 ondary Education Act of 1965; and

13 “(II) as having such credential.”;
14 and

15 (C) in subsection (g), by adding at the end
16 the following new paragraph:

17 “(3) PRIVATE SCHOOL TEACHERS.—An indi-
18 vidual who is employed as a teacher in a private
19 school and is exempt from State certification re-
20 quirements (unless otherwise applicable under State
21 law), may, in lieu of the requirement of subsection
22 (a)(1)(B), have such employment treated as quali-
23 fying employment under this section if such indi-
24 vidual is permitted to and does satisfy rigorous sub-
25 ject knowledge and skills tests by taking competency

1 tests in the applicable grade levels and subject areas.
 2 For such purposes, the competency tests taken by
 3 such a private school teacher must be recognized by
 4 5 or more States for the purpose of fulfilling the
 5 highly qualified teacher requirements under section
 6 9101 of the Elementary and Secondary Education
 7 Act of 1965, and the score achieved by such teacher
 8 on each test must equal or exceed the average pass-
 9 ing score of those 5 States.”.

10 (2) DIRECT LOAN PROVISIONS.—Section 460
 11 (20 U.S.C. 1087j) is amended—

12 (A) in subsection (b)(1)(A)(ii), by inserting
 13 after “1965” the following: “, or meets the re-
 14 quirements of subsection (g)(3)”;

15 (B) in subsection (c)(3)—

16 (i) by striking “and” at the end of
 17 subparagraph (A);

18 (ii) by striking the period at the end
 19 of subparagraph (B) and inserting “;
 20 and”; and

21 (iii) by inserting after subparagraph
 22 (B) the following new subparagraph:

23 “(C) an elementary or secondary school
 24 teacher who primarily teaches reading—

1 “(i) who meets the requirements of
2 subsection (b);

3 “(ii) who has obtained a separate
4 reading instruction credential from the
5 State in which the teacher is employed;
6 and

7 “(iii) who is certified by the chief ad-
8 ministrative officer of the public or non-
9 profit private elementary or secondary
10 school in which the borrower is employed
11 to teach reading—

12 “(I) as being proficient in teach-
13 ing the essential components of read-
14 ing instruction as defined in section
15 1208 of the Elementary and Sec-
16 ondary Education Act of 1965; and

17 “(II) as having such credential.”;
18 and

19 (C) in subsection (g), by adding at the end
20 the following new paragraph:

21 “(3) PRIVATE SCHOOL TEACHERS.—An indi-
22 vidual who is employed as a teacher in a private
23 school and is exempt from State certification re-
24 quirements (unless otherwise applicable under State
25 law), may, in lieu of the requirement of subsection

1 (a)(1)(A)(ii), have such employment treated as
 2 qualifying employment under this section if such in-
 3 dividual is permitted to and does satisfy rigorous
 4 subject knowledge and skills tests by taking com-
 5 petency tests in the applicable grade levels and sub-
 6 ject areas. For such purposes, the competency tests
 7 taken by such a private school teacher must be rec-
 8 ognized by 5 or more States for the purpose of ful-
 9 filling the highly qualified teacher requirements
 10 under section 9101 of the Elementary and Sec-
 11 ondary Education Act of 1965, and the score
 12 achieved by such teacher on each test must equal or
 13 exceed the average passing score of those 5 States.”.

14 **SEC. 2122. LOAN FEES FROM LENDERS.**

15 Section 438(d)(2) (20 U.S.C. 1087–1(d)(2)) is
 16 amended to read as follows:

17 “(2) AMOUNT OF LOAN FEES.—The amount of
 18 the loan fee which shall be deducted under para-
 19 graph (1) shall be equal to—

20 “(A) 0.50 percent of the principal amount
 21 of the loan with respect to any loan under this
 22 part for which the first disbursement was made
 23 on or after October 1, 1993, and before July 1,
 24 2006; and

1 “(B) 1.0 percent of the principal amount
 2 of the loan with respect to any loan under this
 3 part for which the first disbursement was made
 4 on or after July 1, 2006.”.

5 **SEC. 2123. ADDITIONAL ADMINISTRATIVE PROVISIONS.**

6 (a) TREATMENT OF EXEMPT CLAIMS.—

7 (1) INSURANCE COVERAGE.—Section
 8 428(b)(1)(G) (20 U.S.C. 1078(b)(1)(G)) is amended
 9 by inserting before the semicolon at the end the fol-
 10 lowing: “and 100 percent of the unpaid principal
 11 amount of exempt claims as defined in subsection
 12 (c)(1)(G)”.

13 (2) TREATMENT.—Section 428(c)(1) (20
 14 U.S.C. 1078(c)(1)) is amended—

15 (A) by redesignating subparagraph (G) as
 16 subparagraph (H), and moving such subpara-
 17 graph 2 em spaces to the left; and

18 (B) by inserting after subparagraph (F)
 19 the following new subparagraph:

20 “(G)(i) Notwithstanding any other provisions of
 21 this section, in the case of exempt claims, the Sec-
 22 retary shall apply the provisions of—

23 “(I) the fourth sentence of subparagraph
 24 (A) by substituting ‘100 percent’ for ‘95 per-
 25 cent’;

1 “(II) subparagraph (B)(i) by substituting
2 ‘100 percent’ for ‘85 percent’; and

3 “(III) subparagraph (B)(ii) by substituting
4 ‘100 percent’ for ‘75 percent’.

5 “(ii) For purposes of clause (i) of this subpara-
6 graph, the term ‘exempt claims’ means claims with
7 respect to loans for which it is determined that the
8 borrower (or the student on whose behalf a parent
9 has borrowed), without the lender’s or the institu-
10 tion’s knowledge at the time the loan was made, pro-
11 vided false or erroneous information or took actions
12 that caused the borrower or the student to be ineli-
13 gible for all or a portion of the loan or for interest
14 benefits thereon.”.

15 (b) REDUCTION OF INSURANCE PERCENTAGE.—

16 (1) INSURANCE PERCENTAGE REDUCTION.—
17 Section 428(b)(1)(G) as amended by subsection
18 (a)(1) is further amended by inserting after the mat-
19 ter inserted by such subsection the following: “, ex-
20 cept, for any loan for which the first disbursement
21 of principal is made on or after July 1, 2006, the
22 preceding provisions of this subparagraph shall be
23 applied by substituting ‘96 percent’ for ‘98 per-
24 cent’ ”.

1 (2) INCREASE INSURANCE FOR EXCEPTIONAL
2 PERFORMANCE.—Section 428I (20 U.S.C. 1078–9)
3 is amended to read as follows:

4 **“SEC. 428I. SPECIAL INSURANCE AND REINSURANCE RULES**
5 **FOR EXCEPTIONAL PERFORMANCE.**

6 “(a) DESIGNATION OF LENDERS AND SERVICERS.—

7 “(1) IN GENERAL.—Whenever the Secretary de-
8 termines that an eligible lender or servicer meets the
9 performance measures required by paragraph (2),
10 the Secretary shall designate that eligible lender or
11 servicer, as the case may be, for exceptional per-
12 formance. The Secretary shall notify each appro-
13 priate guaranty agency of the eligible lenders and
14 servicers designated under this section.

15 “(2) PERFORMANCE MEASURES.—

16 “(A) In determining whether to award a
17 lender or servicer the exceptional performance
18 designation, the Secretary shall require that the
19 lender or servicer be performing at or above the
20 95 percentile of the industry, and demonstrate
21 improved performance against the lender’s or
22 servicer’s average of the last 3 years on the fac-
23 tors described in subparagraph (B).

24 “(B) The factors on which the Secretary
25 shall require improvement shall include—

1 “(i) delinquency rates;

2 “(ii) the rate at which delinquent ac-
3 counts are restored to good standing;

4 “(iii) default rates;

5 “(iv) the rate of rejected claims; and

6 “(v) any other such measures as de-
7 termined by the Secretary.

8 “(C) In addition, the Secretary shall not
9 make any award of such a designation unless
10 the consequence of the designation is cost-neu-
11 tral to the Federal Government.

12 “(3) ADDITIONAL INFORMATION ON LENDERS
13 AND SERVICERS.—Each appropriate guaranty agen-
14 cy shall provide the Secretary with such other infor-
15 mation in its possession regarding an eligible lender
16 or servicer desiring designation as may relate to the
17 Secretary’s determination under paragraph (1), in-
18 cluding but not limited to any information sug-
19 gesting that the application of a lender or servicer
20 for designation should not be approved.

21 “(4) DETERMINATIONS BY THE SECRETARY.—

22 “(A) The Secretary shall designate an eli-
23 gible lender or servicer for exceptional perform-
24 ance if the eligible lender or servicer meets the

1 performance measures required by paragraph
2 (2).

3 “(B) The Secretary shall make the deter-
4 mination under paragraph (1) based upon the
5 documentation submitted by the eligible lender
6 or servicer as specified in regulation, such other
7 information as provided by any guaranty agen-
8 cy under paragraph (3), and any information in
9 the possession of the Secretary or submitted by
10 any other agency or office of the Federal Gov-
11 ernment.

12 “(C) The Secretary shall inform the eligi-
13 ble lender or servicer and the appropriate guar-
14 anty agency that its application for designation
15 as an exceptional performance lender or servicer
16 has been approved or disapproved.

17 “(5) TRANSITION.—

18 “(A) Any eligible lender or servicer des-
19 ignated for exceptional performance as of the
20 day before the date of enactment of the Higher
21 Education Budget Reconciliation Act of 2005
22 shall continue to be so designated, and subject
23 to the requirements of this section as in effect
24 on that day (including revocation), until the

1 performance standards described in paragraph
2 (2) are established.

3 “(B) The Secretary shall not designate any
4 additional eligible lenders or servicers for excep-
5 tional performance until those performance
6 standards are established.

7 “(b) PAYMENT TO LENDERS AND SERVICERS.—A
8 guaranty agency shall pay, to each eligible lender or
9 servicer (as agent for an eligible lender) designated under
10 subsection (a), 98 percent of the unpaid principal and in-
11 terest of all loans for which claims are submitted for pay-
12 ment by that eligible lender or servicer for the one-year
13 period following the receipt by the guaranty agency of the
14 notification of designation under this section, or until the
15 guaranty agency receives notice from the Secretary that
16 the designation of the lender or servicer under subsection
17 (a)(2) has been revoked.

18 “(c) REVOCATION AUTHORITY.—

19 “(1) The Secretary shall revoke the designation
20 of a lender or a servicer under subsection (a) if the
21 Secretary determines that the lender or servicer has
22 failed to meet the performance standards required
23 by subsection (a)(2).

24 “(2) Notwithstanding any other provision of
25 this section, a designation under subsection (a) may

1 be revoked at any time by the Secretary, in the Sec-
2 retary's discretion, if the Secretary determines that
3 the eligible lender or servicer has failed to meet the
4 criteria and performance standards established by
5 the Secretary in regulation, or if the Secretary be-
6 lieves the lender or servicer may have engaged in
7 fraud in securing designation under subsection (a),
8 or is failing to service loans in accordance with pro-
9 gram regulations.

10 “(d) DOCUMENTATION.—Nothing in this section
11 shall restrict or limit the authority of guaranty agencies
12 to require the submission of claims documentation evi-
13 dencing servicing performed on loans, except that the
14 guaranty agency may not require greater documentation
15 than that required for lenders and servicers not designated
16 under subsection (a).

17 “(e) SPECIAL RULE.—Reimbursements made by the
18 Secretary on loans submitted for claim by an eligible lend-
19 er or loan servicer designated for exceptional performance
20 under this section shall not be subject to additional review
21 by the Secretary or repurchase by the guaranty agency
22 for any reason other than a determination by the Sec-
23 retary that the eligible lender or loan servicer engaged in
24 fraud or other purposeful misconduct in obtaining des-
25 ignation for exceptional performance.

1 “(f) LIMITATION.—Nothing in this section shall be
2 construed to affect the processing of claims on student
3 loans of eligible lenders not subject to this section.

4 “(g) CLAIMS.—A lender or servicer designated under
5 subsection (a) failing to service loans or otherwise comply
6 with applicable program regulations shall be considered in
7 violation of section 3729 of title 31, United States Code.

8 “(h) TERMINATION.—The Secretary may terminate
9 the designation of lenders and servicers under this section
10 if he determines that termination would be in the fiscal
11 interest of the United States.

12 “(i) DEFINITIONS.—As used in this section—

13 “(1) the term ‘eligible loan’ means a loan made,
14 insured, or guaranteed under this part; and

15 “(2) the term ‘servicer’ means an entity serv-
16 icing and collecting student loans that—

17 “(A) has substantial experience in serv-
18 icing and collecting consumer loans or student
19 loans;

20 “(B) has an independent financial audit
21 annually which is furnished to the Secretary
22 and any other parties designated by the Sec-
23 retary;

24 “(C) has business systems which are capa-
25 ble of meeting the requirements of this part;

1 “(D) has adequate personnel who are
2 knowledgeable about the student loan programs
3 authorized by this part; and

4 “(E) does not have any owner, majority
5 shareholder, director, or officer of the entity
6 who has been convicted of a felony.”.

7 (3) EFFECTIVE DATE OF AMENDMENTS.—The
8 amendments made by this subsection shall apply
9 with respect to loans for which the first disburse-
10 ment of principal is made on or after July 1, 2006.

11 (c) DOCUMENTATION OF FORBEARANCE AGREE-
12 MENTS.—Section 428(c) (20 U.S.C. 1078(c)) is further
13 amended—

14 (1) in paragraph (3)(A)(i)—

15 (A) by striking “in writing”; and

16 (B) by inserting “and documented in ac-
17 cordance with paragraph (10)” after “approval
18 of the insurer”; and

19 (2) by adding at the end the following new
20 paragraph:

21 “(10) DOCUMENTATION OF FORBEARANCE
22 AGREEMENTS.—For the purposes of paragraph (3),
23 the terms of forbearance agreed to by the parties
24 shall be documented by confirming the agreement of
25 the borrower by notice to the borrower from the

1 lender, and by recording the terms in the borrower's
2 file.”.

3 (d) CONSOLIDATION OF DEFAULTED LOANS.—Sec-
4 tion 428(c) (20 U.S.C. 1078(c)) is further amended—

5 (1) in paragraph (2)(A)—

6 (A) by inserting “(i)” after “including”;
7 and

8 (B) by inserting before the semicolon at
9 the end the following: “and (ii) requirements es-
10 tablishing procedures to preclude consolidation
11 lending from being an excessive proportion of
12 guaranty agency recoveries on defaulted loans
13 under this part”;

14 (2) in paragraph (2)(D), by striking “para-
15 graph (6)” and inserting “paragraph (6)(A)”; and

16 (3) in paragraph (6)—

17 (A) by inserting “(A)” before “For the
18 purpose of paragraph (2)(D),”;

19 (B) by redesignating subparagraphs (A)
20 and (B) as clauses (i) and (ii), respectively; and

21 (C) by adding at the end the following new
22 subparagraphs:

23 “(B) A guaranty agency shall—

24 “(i) on or after October 1, 2006—

1 “(I) not charge the borrower collec-
2 tion costs in an amount in excess of 18.5
3 percent of the outstanding principal and
4 interest of a defaulted loan that is paid off
5 through consolidation by the borrower
6 under this title; and

7 “(II) remit to the Secretary a portion
8 of the collection charge under subclause (I)
9 equal to 8.5 percent of the outstanding
10 principal and interest of such defaulted
11 loan; and

12 “(ii) on and after October 1, 2009, remit
13 to the Secretary the entire amount charged
14 under clause (i)(I) with respect to each de-
15 faulted loan that is paid off with excess consoli-
16 dation proceeds.

17 “(C) For purposes of subparagraph (B), the
18 term ‘excess consolidation proceeds’ means, with re-
19 spect to any guaranty agency for any Federal fiscal
20 year beginning on or after October 1, 2009, the pro-
21 ceeds of consolidation of defaulted loans under this
22 title that exceed 45 percent of the agency’s total col-
23 lections on defaulted loans in such Federal fiscal
24 year.”.

1 (e) COLLECTION RETENTION PERCENTAGES.—
2 Clause (ii) of section 428(c)(6)(B) (20 U.S.C.
3 1078(c)(6)(B)), as redesignated by subsection (d)(3) of
4 this section, is amended to read as follows:

5 “(ii) an amount equal to 24 percent of
6 such payments for use in accordance with sec-
7 tion 422B, except that—

8 “(I) beginning on October 1, 2003,
9 and ending on October 1, 2006, this clause
10 shall be applied by substituting ‘23 per-
11 cent’ for ‘24 percent’; and

12 “(II) beginning on October 1, 2006,
13 this clause shall be applied by substituting
14 ‘20 percent’ for ‘24 percent’.”.

15 (f) VOLUNTARY FLEXIBLE AGREEMENTS.—Section
16 428A (20 U.S.C. 1078–1) is amended—

17 (1) in subsection (a)(1)(B), by striking “unless
18 the Secretary” and all that follows through “des-
19 ignated guarantor”;

20 (2) by striking paragraph (2) of subsection (a);

21 (3) in paragraph (4)(B) of subsection (a), by
22 striking “and any waivers provided to other guar-
23 anty agencies under paragraph (2)”;

1 (4) by redesignating paragraphs (3) and (4) of
2 subsection (a) as paragraphs (2) and (3), respec-
3 tively; and

4 (5) by striking paragraph (3) of subsection (c)
5 and inserting the following:

6 “(3) NOTICE TO INTERESTED PARTIES.—Once
7 the Secretary reaches a tentative agreement in prin-
8 ciple under this section, the Secretary shall publish
9 in the Federal Register a notice that invites inter-
10 ested parties to comment on the proposed agree-
11 ment. The notice shall state how to obtain a copy of
12 the tentative agreement in principle and shall give
13 interested parties no less than 30 days to provide
14 comments. The Secretary may consider such com-
15 ments prior to providing the notices pursuant to
16 paragraph (2).”.

17 (g) FRAUD: REPAYMENT REQUIRED.—Section
18 428B(a)(1) (20 U.S.C. 1078–2(a)(1)) is amended—

19 (1) by striking “and” at the end of subpara-
20 graph (A);

21 (2) by redesignating subparagraph (B) as sub-
22 paragraph (C); and

23 (3) by inserting after subparagraph (A) the fol-
24 lowing new subparagraph:

“(B) in the case of a parent who has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining funds under this title, such parent has completed the repayment of such funds to the Secretary, or to the holder in the case of a loan under this title obtained by fraud; and”.

(h) DEFAULT REDUCTION PROGRAM.—Section 428F(a)(1) (20 U.S.C. 1078–6(a)(1)) is amended—

(1) in subparagraph (A), by striking “consecutive payments for 12 months” and inserting “9 payments made within 20 days of the due date during 10 consecutive months”;

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

“(C) A guaranty agency may charge the borrower and retain collection costs in an amount not to exceed 18.5 percent of the outstanding principal and interest at the time of sale of a loan rehabilitated under subparagraph (A).”.

(i) FINANCIAL AND ECONOMIC LITERACY.—

1 (1) DEFAULT REDUCTION PROGRAM.—Section
2 428F is further amended by adding at the end the
3 following:

4 “(c) FINANCIAL AND ECONOMIC LITERACY.—Where
5 appropriate, each program described under subsection (b)
6 shall include making financial and economic education ma-
7 terials available to the borrower.”.

8 (2) PROGRAM ASSISTANCE FOR BORROWERS.—
9 Section 432(k)(1) (20 U.S.C. 1082(k)(1)) is amend-
10 ed by striking “and offering” and all that follows
11 through the period and inserting “, offering loan re-
12 payment matching provisions as part of employee
13 benefit packages, and providing employees with fi-
14 nancial and economic education and counseling.”.

15 (j) CREDIT BUREAU ORGANIZATION AGREEMENTS.—
16 Section 430A(a) (20 U.S.C. 1080a(a)) is amended by
17 striking “agreements with credit bureau organizations”
18 and inserting “an agreement with each national credit bu-
19 reau organization (as described in section 603(p) of the
20 Fair Credit Reporting Act)”.

21 (k) UNIFORM ADMINISTRATIVE AND CLAIMS PROCE-
22 DURE.—Section 432(l)(1)(H) (20 U.S.C. 1082(l)(1)(H))
23 is amended by inserting “and anticipated graduation
24 date” after “status change”.

1 (l) DEFAULT REDUCTION MANAGEMENT.—Section
2 432 is further amended—

3 (1) by striking subsection (n); and

4 (2) by redesignating subsections (o) and (p) as
5 subsections (n) and (o), respectively.

6 (m) SCHOOLS AS LENDERS.—Paragraph (2) of sec-
7 tion 435(d) (20 U.S.C. 1085(d)(2)) is amended to read
8 as follows:

9 “(2) REQUIREMENTS FOR ELIGIBLE INSTITU-
10 TIONS.—

11 “(A) IN GENERAL.—To be an eligible lend-
12 er under this part, an eligible institution—

13 “(i) shall employ at least one person
14 whose full-time responsibilities are limited
15 to the administration of programs of finan-
16 cial aid for students attending such institu-
17 tion;

18 “(ii) shall not be a home study school;

19 “(iii) shall not—

20 “(I) make a loan to any under-
21 graduate student;

22 “(II) make a loan other than a
23 loan under section 428 or 428H to a
24 graduate or professional student; or

1 “(III) make a loan to a borrower
2 who is not enrolled at that institution;

3 “(iv) shall award any contract for fi-
4 nancing, servicing, or administration of
5 loans under this title on a competitive
6 basis;

7 “(v) shall offer loans that carry an
8 origination fee or an interest rate, or both,
9 that are less than such fee or rate author-
10 ized under the provisions of this title;

11 “(vi) shall not have a cohort default
12 rate (as defined in section 435(m)) greater
13 than 10 percent;

14 “(vii) shall, for any year for which the
15 institution engages in activities as an eligi-
16 ble lender, provide for a compliance audit
17 conducted in accordance with section
18 428(b)(1)(U)(iii)(I), and the regulations
19 thereunder, and submit the results of such
20 audit to the Secretary; and

21 “(viii) shall use any proceeds from
22 special allowance payments and interest
23 payments from borrowers, interest sub-
24 sidies received from the Department of
25 Education, and any proceeds from the sale

1 or other disposition of loans, for need-
2 based grant programs.

3 “(B) ADMINISTRATIVE EXPENSES.—An el-
4 igible lender under subparagraph (A) shall be
5 permitted to use a portion of the proceeds de-
6 scribed in subparagraph (A)(viii) for reasonable
7 and direct administrative expenses.

8 “(C) SUPPLEMENT, NOT SUPPLANT.—An
9 eligible lender under subparagraph (A) shall en-
10 sure that the proceeds described in subpara-
11 graph (A)(viii) are used to supplement, and not
12 to supplant, non-Federal funds that would oth-
13 erwise be used for need-based grant pro-
14 grams.”.

15 (n) DISABILITY DETERMINATIONS.—Section 437(a)
16 (20 U.S.C. 1087(a)) is amended by adding at the end the
17 following new sentence: “In making such determination of
18 permanent and total disability, the Secretary shall not re-
19 quire a borrower who has been certified as permanently
20 and totally disabled by the Department of Veterans Af-
21 fairs or the Social Security Administration to present fur-
22 ther documentation of disability for purposes of this
23 title.”.

24 (o) TREATMENT OF FALSELY CERTIFIED BOR-
25 ROWERS.—Section 437(c)(1) (20 U.S.C. 1087(c)(1)) is

1 amended by inserting “or parent’s eligibility” after “such
2 student’s eligibility”.

3 (p) PERFECTION OF SECURITY INTERESTS.—Section
4 439(d) (20 U.S.C. 1087–2(d)) is amended—

5 (1) by striking paragraph (3); and

6 (2) by redesignating paragraphs (4) and (5) as
7 paragraphs (3) and (4), respectively.

8 (q) ADDITIONAL TECHNICAL AMENDMENTS.—

9 (1) Section 428(a)(2)(A) (20 U.S.C.
10 1078(a)(2)(A)) is amended—

11 (A) by striking “and” at the end of sub-
12 clause (II) of clause (i); and

13 (B) by moving the margin of clause (iii)
14 two ems to the left.

15 (2) Section 428(a)(3)(A)(v) (20 U.S.C.
16 1078(a)(3)(A)(v)) is amended—

17 (A) by striking “or” at the end of sub-
18 clause (I);

19 (B) by striking the period at the end of
20 subclause (II) and inserting “; or”; and

21 (C) by adding after subclause (II) the fol-
22 lowing new subclause:

23 “(III) in the case of a loan disbursed
24 through an escrow agent, 3 days before the first
25 disbursement of the loan.”.

1 (3) Section 428(c)(1)(A) (20 U.S.C.
2 1078(c)(1)(A)) is amended by striking “45 days” in
3 the last sentence and inserting “30 days”.

4 (4) Section 428(i)(1) (20 U.S.C. 1078(i)(1)) is
5 amended by striking “21 days” in the third sentence
6 and inserting “10 days”.

7 (5) Section 428G(e) (20 U.S.C. 1078–7(e)) is
8 amended by striking “, made to a student to cover
9 the cost of attendance at an eligible institution out-
10 side the United States,”.

11 (6) Section 428H(e) (20 U.S.C. 1078–8(e)) is
12 amended by striking paragraph (6) and inserting the
13 following:

14 “(6) TIME LIMITS ON BILLING INTEREST.—A
15 lender may not receive interest on a loan under this
16 section from a borrower for any period that precedes
17 the dates described in section 428(a)(3)(A)(v).”.

18 (7) Section 432(m)(1)(B) (20 U.S.C.
19 1082(m)(1)(B)) is amended—

20 (A) in clause (i), by inserting “and” after
21 the semicolon at the end; and

22 (B) in clause (ii), by striking “; and” and
23 inserting a period.

24 (8) Section 438(b)(4)(B) (20 U.S.C. 1087–
25 1(b)(4)(B)) is amended by striking “shall be com-

1 puted” and all that follows through “to the loan”
 2 and inserting “described in subparagraph (A) shall
 3 be computed using the interest rate described in sec-
 4 tion 3902(a) of title 31, United States Code,”.

5 **SEC. 2124. FUNDS FOR ADMINISTRATIVE EXPENSES.**

6 Section 458 is amended to read as follows:

7 **“SEC. 458. FUNDS FOR ADMINISTRATIVE EXPENSES.**

8 “(a) ADMINISTRATIVE EXPENSES.—

9 “(1) MANDATORY FUNDS FOR FISCAL YEAR
 10 2006.—For fiscal year 2006, there shall be available
 11 to the Secretary, from funds not otherwise appro-
 12 priated, funds to be obligated for—

13 “(A) administrative costs under this part
 14 and part B, including the costs of the direct
 15 student loan programs under this part; and

16 “(B) account maintenance fees payable to
 17 guaranty agencies under part B and calculated
 18 in accordance with subsections (b) and (c),
 19 not to exceed (from such funds not otherwise appro-
 20 priated) \$820,000,000 in fiscal year 2006.

21 “(2) AUTHORIZATION FOR ADMINISTRATIVE
 22 COSTS BEGINNING IN FISCAL YEAR 2007.—For each
 23 of the fiscal years 2007 through 2011, there are au-
 24 thorized to be appropriated such sums as may be
 25 necessary for administrative costs under this part

1 and part B, including the costs of the direct student
2 loan programs under this part.

3 “(3) CONTINUING MANDATORY FUNDS FOR AC-
4 COUNT MAINTENANCE FEES.—For each of the fiscal
5 years 2007 through 2011, there shall be available to
6 the Secretary, from funds not otherwise appro-
7 priated, funds to be obligated for account mainte-
8 nance fees payable to guaranty agencies under part
9 B and calculated in accordance with subsection (b).

10 “(4) ACCOUNT MAINTENANCE FEES.—Account
11 maintenance fees under paragraph (3) shall be paid
12 quarterly and deposited in the Agency Operating
13 Fund established under section 422B.

14 “(5) CARRYOVER.—The Secretary may carry
15 over funds made available under this section to a
16 subsequent fiscal year.

17 “(b) CALCULATION BASIS.—Account maintenance
18 fees payable to guaranty agencies under subsection (a)(3)
19 shall not exceed the basis of 0.10 percent of the original
20 principal amount of outstanding loans on which insurance
21 was issued under part B.

22 “(c) BUDGET JUSTIFICATION.—No funds may be ex-
23 pended under this section unless the Secretary includes
24 in the Department of Education’s annual budget justifica-
25 tion to Congress a detailed description of the specific ac-

1 tivities for which the funds made available by this section
 2 have been used in the prior and current years (if applica-
 3 ble), the activities and costs planned for the budget year,
 4 and the projection of activities and costs for each remain-
 5 ing year for which administrative expenses under this sec-
 6 tion are made available.”.

7 **SEC. 2125. SIGNIFICANTLY SIMPLIFYING THE STUDENT AID**
 8 **APPLICATION PROCESS.**

9 (a) EXPANDING THE AUTO-ZERO AND FURTHER
 10 SIMPLIFYING THE SIMPLIFIED NEEDS TEST.—

11 (1) SIMPLIFIED NEEDS TEST.—Section 479 (20
 12 U.S.C. 1087ss) is amended—

13 (A) in subsection (b)—

14 (i) in paragraph (1)—

15 (I) by striking clause (i) of sub-
 16 paragraph (A) and inserting the fol-
 17 lowing:

18 “(i) the student’s parents file, or are
 19 eligible to file, a form described in para-
 20 graph (3) or certify that they are not re-
 21 quired to file an income tax return, and
 22 the student files, or is eligible to file, such
 23 a form or certifies that the student is not
 24 required to file an income tax return, or
 25 the student’s parents, or the student, re-

1 ceived benefits at some time during the
2 previous 12-month period under a means-
3 tested Federal benefit program as defined
4 under subsection (d); and”; and

5 (II) by striking clause (i) of sub-
6 paragraph (B) and inserting the fol-
7 lowing:

8 “(i) the student (and the student’s
9 spouse, if any) files, or is eligible to file, a
10 form described in paragraph (3) or cer-
11 tifies that the student (and the student’s
12 spouse, if any) is not required to file an in-
13 come tax return, or the student (and the
14 student’s spouse, if any) received benefits
15 at some time during the previous 12-month
16 period under a means-tested Federal ben-
17 efit program as defined under subsection
18 (d); and”; and

19 (ii) in paragraph (3), by striking “A
20 student or family files a form described in
21 this subsection, or subsection (c), as the
22 case may be, if the student or family, re-
23 spectively, files” and inserting “In the case
24 of an independent student, the student, or
25 in the case of a dependent student, the

parent, files a form described in this subsection, or subsection (c), as the case may be, if the student or parent, as appropriate, files”;

(B) in subsection (c)—

(i) in paragraph (1), by striking subparagraph (A) and inserting the following:

“(A) the student’s parents file, or are eligible to file, a form described in subsection (b)(3) or certify that they are not required to file an income tax return, and the student files, or is eligible to file, such a form or certifies that the student is not required to file an income tax return, or the student’s parents, or the student, received benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined in subsection (d); and”;

(ii) in paragraph (2), by striking subparagraph (A) and inserting the following:

“(A) the student (and the student’s spouse, if any) files, or is eligible to file, a form described in subsection (b)(3) or certifies that the student (and the student’s spouse, if any) is not required to file an income tax return, or

1 the student (and the student’s spouse, if any)
2 received benefits at some time during the pre-
3 vious 12-month period under a means-tested
4 Federal benefit program as defined in sub-
5 section (d); and”;

6 (C) by adding at the end the following new
7 subsections:

8 “(d) DEFINITION OF MEANS-TESTED FEDERAL
9 BENEFIT PROGRAM.—For the purposes of this section,
10 the term ‘means-tested Federal benefit program’ means
11 a mandatory spending program of the Federal Govern-
12 ment, other than a program under this title, in which eligi-
13 bility for the program’s benefits, or the amount of such
14 benefits, or both, are determined on the basis of income
15 or resources of the individual or family seeking the benefit,
16 and may include such programs as the supplemental secu-
17 rity income program under title XVI of the Social Security
18 Act, the food stamp program under the Food Stamp Act
19 of 1977, the free and reduced price school lunch program
20 established under the Richard B. Russell National School
21 Lunch Act, the temporary assistance to needy families
22 program established under part A of title IV of the Social
23 Security Act, and the women, infants and children pro-
24 gram established under Section 17 of the Child Nutrition

1 Act of 1966, and other programs identified by the Sec-
2 retary.

3 “(e) REPORTING REQUIREMENTS.—The Secretary
4 shall regularly evaluate the impact of the eligibility guide-
5 lines in subsections (b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A)
6 and (c)(2)(A) of this section. In particular, the Secretary
7 shall evaluate whether using receipt of benefits under a
8 means-tested Federal benefit program (as defined in sub-
9 section (d)) for eligibility continues to target the Sim-
10 plified Needs Test, to the greatest extent possible, for use
11 by low- and moderate-income students and their fami-
12 lies.”.

13 (b) IMPROVEMENTS TO PAPER AND ELECTRONIC
14 FORMS.—

15 (1) COMMON FINANCIAL AID FORM DEVELOP-
16 MENT AND PROCESSING.—Section 483(a) (20 U.S.C.
17 1090(a)) is amended—

18 (A) by striking paragraphs (1), (2), and
19 (5);

20 (B) by redesignating paragraphs (3), (4),
21 (6), and (7), as paragraphs (9), (10), (11), and
22 (12), respectively;

23 (C) by inserting before paragraph (9), as
24 redesignated by subparagraph (B), the fol-
25 lowing:

1 “(1) IN GENERAL.—The Secretary, in coopera-
2 tion with representatives of agencies and organiza-
3 tions involved in student financial assistance, shall
4 produce, distribute, and process free of charge com-
5 mon financial reporting forms as described in this
6 subsection to be used for application and reapplica-
7 tion to determine the need and eligibility of a stu-
8 dent for financial assistance under parts A through
9 E (other than subpart 4 of part A). These forms
10 shall be made available to applicants in both paper
11 and electronic formats and shall be referred to as
12 the ‘Free Application for Federal Student Aid’ or
13 the ‘FAFSA’ .

14 “(2) EARLY ESTIMATES.—

15 “(A) IN GENERAL.—The Secretary shall
16 permit applicants to complete such forms as de-
17 scribed in this subsection in the 4 years prior
18 to enrollment in order to obtain a non-binding
19 estimate of the family contribution, as defined
20 in section 473. The estimate shall clearly and
21 conspicuously indicate that it is only an esti-
22 mate of family contribution, and may not re-
23 flect the actual family contribution of the appli-
24 cant that shall be used to determine the grant,
25 loan, or work assistance that the applicant may

1 receive under this title when enrolled in a pro-
2 gram of postsecondary education. Such appli-
3 cants shall be permitted to update information
4 submitted on forms described in this subsection
5 using the process required under paragraph
6 (5)(A).

7 “(B) EVALUATION.—Two years after the
8 early estimates are implemented under this
9 paragraph and from data gathered from the
10 early estimates, the Secretary shall evaluate the
11 differences between initial, non-binding early es-
12 timates and the final financial aid award made
13 available under this title.

14 “(C) REPORT.—The Secretary shall pro-
15 vide a report to the authorizing committees on
16 the results of the evaluation.

17 “(3) PAPER FORMAT.—

18 “(A) IN GENERAL.—The Secretary shall
19 produce, distribute, and process common forms
20 in paper format to meet the requirements of
21 paragraph (1). The Secretary shall develop a
22 common paper form for applicants who do not
23 meet the requirements of subparagraph (B).

24 “(B) EZ FAFSA.—

1 “(i) IN GENERAL.—The Secretary
2 shall develop and use a simplified paper
3 application form, to be known as the ‘EZ
4 FAFSA’, to be used for applicants meeting
5 the requirements of section 479(c).

6 “(ii) REDUCED DATA REQUIRE-
7 MENTS.—The form under this subpara-
8 graph shall permit an applicant to submit,
9 for financial assistance purposes, only the
10 data elements required to make a deter-
11 mination of whether the applicant meets
12 the requirements under section 479(c).

13 “(iii) STATE DATA.—The Secretary
14 shall include on the form under this sub-
15 paragraph such data items as may be nec-
16 essary to award State financial assistance,
17 as provided under paragraph (6), except
18 that the Secretary shall not include a
19 State’s data if that State does not permit
20 its applicants for State assistance to use
21 the form under this subparagraph.

22 “(iv) FREE AVAILABILITY AND PROC-
23 ESSING.—The provisions of paragraph (7)
24 shall apply to the form under this subpara-
25 graph, and the data collected by means of

1 the form under this subparagraph shall be
2 available to institutions of higher edu-
3 cation, guaranty agencies, and States in
4 accordance with paragraph (9).

5 “(v) TESTING.—The Secretary shall
6 conduct appropriate field testing on the
7 form under this subparagraph.

8 “(C) PROMOTING THE USE OF ELEC-
9 TRONIC FAFSA.—

10 “(i) IN GENERAL.—The Secretary
11 shall—

12 “(I) develop a form that uses
13 skip logic to simplify the application
14 process for applicants; and

15 “(II) make all efforts to encour-
16 age applicants to utilize the electronic
17 forms described in paragraph (4).

18 “(ii) MAINTENANCE OF THE FAFSA IN
19 A PRINTABLE ELECTRONIC FILE.—The
20 Secretary shall maintain a version of the
21 paper forms described in subparagraphs
22 (A) and (B) in a printable electronic file
23 that is easily portable. The printable elec-
24 tronic file will be made easily accessible
25 and downloadable to students on the same

1 website used to provide students with the
2 electronic application forms described in
3 paragraph (4) of this subsection. The Sec-
4 retary shall enable students to submit a
5 form created under this subparagraph that
6 is downloaded and printed from an elec-
7 tronic file format in order to meet the fil-
8 ing requirements of this section and in
9 order to receive aid from programs under
10 this title.

11 “(iii) REPORTING REQUIREMENT.—
12 The Secretary shall report annually to
13 Congress on the impact of the digital di-
14 vide on students completing applications
15 for title IV aid described under this para-
16 graph and paragraph (4). The Secretary
17 will also report on the steps taken to elimi-
18 nate the digital divide and phase out the
19 paper form described in subparagraph (A)
20 of this paragraph. The Secretary’s report
21 will specifically address the impact of the
22 digital divide on the following student pop-
23 ulations: dependent students, independent
24 students without dependents, and inde-

1 pendent students with dependents other
2 than a spouse.

3 “(4) ELECTRONIC FORMAT.—

4 “(A) IN GENERAL.—The Secretary shall
5 produce, distribute, and process common forms
6 in electronic format to meet the requirements of
7 paragraph (1). The Secretary shall develop
8 common electronic forms for applicants who do
9 not meet the requirements of subparagraph (C)
10 of this paragraph.

11 “(B) STATE DATA.—The Secretary shall
12 include on the common electronic forms space
13 for information that needs to be submitted from
14 the applicant to be eligible for State financial
15 assistance, as provided under paragraph (6), ex-
16 cept the Secretary shall not require applicants
17 to complete data required by any State other
18 than the applicant’s State of residence.

19 “(C) SIMPLIFIED APPLICATIONS: FAFSA ON
20 THE WEB.—

21 “(i) IN GENERAL.—The Secretary
22 shall develop and use a simplified elec-
23 tronic application form to be used by appli-
24 cants meeting the requirements under sub-
25 section (c) of section 479 and an addi-

1 tional, separate simplified electronic appli-
2 cation form to be used by applicants meet-
3 ing the requirements under subsection (b)
4 of section 479.

5 “(ii) REDUCED DATA REQUIRE-
6 MENTS.—The simplified electronic applica-
7 tion forms shall permit an applicant to
8 submit for financial assistance purposes
9 only the data elements required to make a
10 determination of whether the applicant
11 meets the requirements under subsection
12 (b) or (c) of section 479.

13 “(iii) STATE DATA.—The Secretary
14 shall include on the simplified electronic
15 application forms such data items as may
16 be necessary to award state financial as-
17 sistance, as provided under paragraph (6),
18 except that the Secretary shall not require
19 applicants to complete data required by
20 any State other than the applicant’s State
21 of residence.

22 “(iv) AVAILABILITY AND PROC-
23 ESSING.—The data collected by means of
24 the simplified electronic application forms
25 shall be available to institutions of higher

1 education, guaranty agencies, and States
2 in accordance with paragraph (9).

3 “(v) TESTING.—The Secretary shall
4 conduct appropriate field testing on the
5 forms developed under this subparagraph.

6 “(D) USE OF FORMS.—Nothing in this
7 subsection shall be construed to prohibit the use
8 of the forms developed by the Secretary pursu-
9 ant to this paragraph by an eligible institution,
10 eligible lender, guaranty agency, State grant
11 agency, private computer software provider, a
12 consortium thereof, or such other entities as the
13 Secretary may designate.

14 “(E) PRIVACY.—The Secretary shall en-
15 sure that data collection under this paragraph
16 complies with section 552a of title 5, United
17 States Code, and that any entity using the elec-
18 tronic version of the forms developed by the
19 Secretary pursuant to this paragraph shall
20 maintain reasonable and appropriate adminis-
21 trative, technical, and physical safeguards to
22 ensure the integrity and confidentiality of the
23 information, and to protect against security
24 threats, or unauthorized uses or disclosures of
25 the information provided on the electronic

1 version of the forms. Data collected by such
2 electronic version of the forms shall be used
3 only for the application, award, and administra-
4 tion of aid awarded under this title, State aid,
5 or aid awarded by eligible institutions or such
6 entities as the Secretary may designate. No
7 data collected by such electronic version of the
8 forms shall be used for making final aid awards
9 under this title until such data have been proc-
10 essed by the Secretary or a contractor or des-
11 ignee of the Secretary, and an expected family
12 contribution has been calculated by the Sec-
13 retary, except as may be permitted under this
14 title.

15 “(F) SIGNATURE.—Notwithstanding any
16 other provision of this Act, the Secretary may
17 permit an electronic form under this paragraph
18 to be submitted with an electronic signature.

19 “(5) STREAMLINING.—

20 “(A) STREAMLINED REAPPLICATION PROC-
21 ESS.—

22 “(i) IN GENERAL.—The Secretary
23 shall develop streamlined reapplication
24 forms and processes, including both paper
25 and electronic reapplication processes, con-

1 sistent with the requirements of this sub-
2 section, for an applicant who applies for fi-
3 nancial assistance under this title—

4 “(I) in the academic year suc-
5 ceeding the year in which such appli-
6 cant first applied for financial assist-
7 ance under this title; or

8 “(II) in any succeeding academic
9 years.

10 “(ii) MECHANISMS FOR REAPPLICA-
11 TION.—The Secretary shall develop appro-
12 priate mechanisms to support reapplica-
13 tion.

14 “(iii) IDENTIFICATION OF UPDATED
15 DATA.—The Secretary shall determine, in
16 cooperation with States, institutions of
17 higher education, agencies, and organiza-
18 tions involved in student financial assist-
19 ance, the data elements that can be up-
20 dated from the previous academic year’s
21 application.

22 “(iv) REDUCED DATA AUTHORIZED.—
23 Nothing in this title shall be construed as
24 limiting the authority of the Secretary to

1 reduce the number of data elements re-
2 quired of reapplicants.

3 “(v) ZERO FAMILY CONTRIBUTION.—
4 Applicants determined to have a zero fam-
5 ily contribution pursuant to section 479(c)
6 shall not be required to provide any finan-
7 cial data in a reapplication form, except
8 that which is necessary to determine eligi-
9 bility under such section.

10 “(B) REDUCTION OF DATA ELEMENTS.—

11 “(i) REDUCTION ENCOURAGED.—Of
12 the number of data elements on the
13 FAFSA on the date of enactment of the
14 Higher Education Budget Reconciliation
15 Act of 2005 (including questions on the
16 FAFSA for the purposes described in
17 paragraph (6)), the Secretary, in coopera-
18 tion with representatives of agencies and
19 organizations involved in student financial
20 assistance, shall continue to reduce the
21 number of such data elements following
22 the date of enactment. Reductions of data
23 elements under paragraph (3)(B), (4)(C),
24 or (5)(A)(iv) shall not be counted towards
25 the reduction referred to in this paragraph

1 unless those data elements are reduced for
2 all applicants.

3 “(ii) REPORT.—The Secretary shall
4 annually report to the House of Represent-
5 atives and the Senate on the progress
6 made of reducing data elements.

7 “(6) STATE REQUIREMENTS.—

8 “(A) IN GENERAL.—The Secretary shall
9 include on the forms developed under this sub-
10 section, such State-specific data items as the
11 Secretary determines are necessary to meet
12 State requirements for State need-based finan-
13 cial aid under section 415C, except as provided
14 in paragraphs (3)(B)(iii) and (4)(C)(iii) of this
15 subsection. Such items shall be selected in con-
16 sultation with State agencies in order to assist
17 in the awarding of State financial assistance in
18 accordance with the terms of this subsection,
19 except as provided in paragraphs (3)(B)(iii) and
20 (4)(C)(iii) of this subsection. The number of
21 such data items shall not be less than the num-
22 ber included on the form on October 7, 1998,
23 unless a State notifies the Secretary that the
24 State no longer requires those data items for

1 the distribution of State need-based financial
2 aid.

3 “(B) ANNUAL REVIEW.—The Secretary
4 shall conduct an annual review process to deter-
5 mine which forms and data items the States re-
6 quire to award State need-based financial aid
7 and other application requirements that the
8 States may impose.

9 “(C) STATE USE OF SIMPLIFIED FORMS.—
10 The Secretary shall encourage States to take
11 such steps as necessary to encourage the use of
12 simplified application forms, including those de-
13 scribed in paragraphs (3)(B) and (4)(C), to
14 meet the requirements under subsection (b) or
15 (c) of section 479.

16 “(D) FEDERAL REGISTER NOTICE.—The
17 Secretary shall publish on an annual basis a no-
18 tice in the Federal Register requiring State
19 agencies to inform the Secretary—

20 “(i) if the State agency is unable to
21 permit applicants to utilize the simplified
22 application forms described in paragraphs
23 (3)(B) and (4)(C); and

1 “(ii) of the State-specific data that
2 the State agency requires for delivery of
3 State need-based financial aid.

4 “(E) STATE NOTIFICATION TO THE SEC-
5 RETARY.—

6 “(i) IN GENERAL.—Each State agency
7 shall notify the Secretary—

8 “(I) whether the State permits
9 an applicant to file a form described
10 in paragraph (3)(B) or paragraph
11 (4)(C) of this subsection for purposes
12 of determining eligibility for State
13 need-based financial aid; and

14 “(II) the State-specific data that
15 the State agency requires for delivery
16 of State need-based financial aid.

17 “(ii) ACCEPTANCE OF FORMS.—In the
18 event that a State does not permit an ap-
19 plicant to file a form described in para-
20 graph (3)(B) or paragraph (4)(C) of this
21 subsection for purposes of determining eli-
22 gibility for State need-based financial
23 aid—

24 “(I) the State shall notify the
25 Secretary if the State is not permitted

1 to do so because of either State law or
2 because of agency policy; and

3 “(II) the notification under sub-
4 clause (I) shall include an estimate of
5 the program cost to permit applicants
6 to complete simplified application
7 forms under paragraphs (3)(B) and
8 paragraph (4)(C) of this subsection.

9 “(iii) LACK OF NOTIFICATION BY THE
10 STATE.—If a State does not notify the
11 Secretary pursuant to clause (i), the Sec-
12 retary shall—

13 “(I) permit residents of that
14 State to complete simplified applica-
15 tion forms under paragraphs (3)(B)
16 and paragraph (4)(C) of this sub-
17 section; and

18 “(II) not require any resident of
19 that State to complete any data pre-
20 viously required by that State under
21 this section.

22 “(7) CHARGES TO STUDENTS AND PARENTS
23 FOR USE OF FORMS PROHIBITED.—

24 “(A) FEES PROHIBITED.—The FAFSA, in
25 whatever form (including the EZ-FAFSA,

1 paper, electronic, simplified, or reapplication),
2 shall be produced, distributed, and processed by
3 the Secretary and no parent or student shall be
4 charged a fee by any entity for the collection,
5 processing, or delivery of financial aid through
6 the use of the FAFSA. The need and eligibility
7 of a student for financial assistance under parts
8 A through E of this title (other than under sub-
9 part 4 of part A) may only be determined by
10 using the FAFSA developed by the Secretary
11 pursuant to this subsection. No student may re-
12 ceive assistance under parts A through E of
13 this title (other than under subpart 4 of part
14 A), except by use of the FAFSA developed by
15 the Secretary pursuant to this subsection. No
16 data collected on a form, worksheet, or other
17 document for which a fee is charged shall be
18 used to complete the FAFSA.

19 “(B) NOTICE.—Any entity that provides to
20 students or parents, or charges students or par-
21 ents for, any value-added services with respect
22 to or in connection with the FAFSA, such as
23 completion of the FAFSA, submission of the
24 FAFSA, or tracking of the FAFSA for a stu-

1 dent, shall provide to students and parents
2 clear and conspicuous notice that—

3 “(i) the FAFSA is a free Federal stu-
4 dent aid application;

5 “(ii) the FAFSA can be completed
6 without professional assistance; and

7 “(iii) includes the current Internet ad-
8 dress for the FAFSA on the Department’s
9 web site.

10 “(8) APPLICATION PROCESSING CYCLE.—The
11 Secretary shall enable students to submit a form
12 created under this subsection in order to meet the
13 filing requirements of this section and in order to re-
14 ceive aid from programs under this title and shall
15 initiate the processing of applications under this
16 subsection as early as practicable prior to January
17 1 of the student’s planned year of enrollment.”.

18 (2) MASTER CALENDAR.—Section 482(a)(1)(B)
19 (20 U.S.C. 1089) is amended to read as follows:

20 “(B) by March 1: proposed modifications,
21 updates, and notices pursuant to sections 478,
22 479(c)(2)(C), and 483(a)(6) published in the
23 Federal Register;”.

1 (c) INCREASING ACCESS TO TECHNOLOGY.—Section
 2 483 (20 U.S.C. 1090) is further amended by adding at
 3 the end the following:

4 “(f) ADDRESSING THE DIGITAL DIVIDE.—The Sec-
 5 retary shall utilize savings accrued by moving more appli-
 6 cants to the electronic forms described in subsection (a)(4)
 7 to improve access to the electronic forms described in sub-
 8 section (a)(4) for applicants meeting the requirements of
 9 section 479(c).”.

10 (d) EXPANDING THE DEFINITION OF AN INDE-
 11 PENDENT STUDENT.—Section 480(d) (20
 12 U.S.C.1087vv(d)) is amended by striking paragraph (2)
 13 and inserting the following:

14 “(2) is an orphan, in foster care, or a ward of
 15 the court, or was in foster care or a ward of the
 16 court until the individual reached the age of 18;”.

17 **SEC. 2126. ADDITIONAL NEED ANALYSIS AMENDMENTS.**

18 (a) INCOME PROTECTION ALLOWANCE FOR DEPEND-
 19 ENT STUDENTS.—

20 (1) AMENDMENT.—Section 475(g)(2)(D) (20
 21 U.S.C. 1087oo(g)(2)(D)) is amended by striking
 22 “\$2,200” and inserting “\$3,000”.

23 (2) CONFORMING AMENDMENT.—Section
 24 478(b) (20 U.S.C. 1087rr(b)) is amended by adding
 25 at the end the following new paragraph:

1 “(3) REVISED AMOUNTS AFTER INCREASE.—

2 Notwithstanding paragraph (2), for each academic
3 year after academic year 2006–2007, the Secretary
4 shall publish in the Federal Register a revised in-
5 come protection allowance for the purpose of section
6 475(g)(2)(D). Such revised allowance shall be devel-
7 oped by increasing the dollar amount contained in
8 such section by a percentage equal to the estimated
9 percentage increase in the Consumer Price Index (as
10 determined by the Secretary) between December
11 2005 and the December next preceding the begin-
12 ning of such academic year, and rounding the result
13 to the nearest \$10.”.

14 (3) EFFECTIVE DATE.—The amendments made
15 by this subsection shall apply with respect to deter-
16 minations of need for periods of enrollment begin-
17 ning on or after July 1, 2006.

18 (b) EMPLOYMENT EXPENSE ALLOWANCE.—Section
19 478(h) (20 U.S.C. 1087rr(h)) is amended—

20 (1) by striking “476(b)(4)(B),”; and

21 (2) by striking “meals away from home, apparel
22 and upkeep, transportation, and housekeeping serv-
23 ices” and inserting “food away from home, apparel,
24 transportation, and household furnishings and oper-
25 ations”.

1 (c) DISCRETION OF STUDENT FINANCIAL AID AD-
2 MINISTRATORS.—Section 479A(a) (20 U.S.C. 1087tt(a))
3 is amended—

4 (1) by striking “(a) IN GENERAL.—” and in-
5 serting the following:

6 “(a) AUTHORITY TO MAKE ADJUSTMENTS.—

7 “(1) ADJUSTMENTS FOR SPECIAL CIR-
8 CUMSTANCES.—”;

9 (2) by inserting before “Special circumstances
10 may” the following:

11 “(2) SPECIAL CIRCUMSTANCES DEFINED.—”;

12 (3) by inserting “a student’s status as a ward
13 of the court at any time prior to attaining 18 years
14 of age, a student’s status as an individual who was
15 adopted at or after age 13, a student’s status as a
16 homeless or unaccompanied youth (as defined in sec-
17 tion 725 of the McKinney-Vento Homeless Assist-
18 ance Act),” after “487,”;

19 (4) by inserting before “Adequate documenta-
20 tion” the following:

21 “(3) DOCUMENTATION AND USE OF SUPPLE-
22 MENTARY INFORMATION.—”; and

23 (5) by inserting before “No student” the fol-
24 lowing:

1 “(4) FEES FOR SUPPLEMENTARY INFORMATION
2 PROHIBITED.—”.

3 (d) TREATING ACTIVE DUTY MEMBERS OF THE
4 ARMED FORCES AS INDEPENDENT STUDENTS.—Section
5 480(d)(3) (20 U.S.C. 1087vv(d)(3)) is amended by insert-
6 ing before the semicolon at the end the following: “or is
7 currently serving on active duty in the Armed Forces for
8 other than training purposes”.

9 (e) EXCLUDABLE INCOME.—Section 480(e) (20
10 U.S.C. 1087vv(e)) is amended—

11 (1) by striking “and” at the end of paragraph
12 (3);

13 (2) by striking the period at the end of para-
14 graph (4) and inserting “; and”; and

15 (3) by adding at the end the following new
16 paragraph:

17 “(5) any part of any distribution from a quali-
18 fied tuition program established under section 529
19 of the Internal Revenue Code of 1986 that is not in-
20 cludable in gross income under such section 529.”.

21 (f) TREATMENT OF SAVINGS PLANS.—

22 (1) AMENDMENT.—Section 480(f) (20 U.S.C.
23 1087vv(f)) is amended—

24 (A) in paragraph (1), by inserting “quali-
25 fied tuition programs established under section

1 529 of the Internal Revenue Code of 1986 (26
2 U.S.C. 529), except as provided in paragraph
3 (2),” after “tax shelters,”;

4 (B) by redesignating paragraph (2) as
5 paragraph (3); and

6 (C) by inserting after paragraph (1) the
7 following new paragraph:

8 “(2) A qualified tuition program shall not be consid-
9 ered an asset of a dependent student under section 475
10 of this part. The value of a qualified tuition program for
11 purposes of determining the assets of parents or inde-
12 pendent students shall be—

13 “(A) the refund value of any tuition credits or
14 certificates purchased under section 529 of the In-
15 ternal Revenue Code of 1986 (26 U.S.C. 529) on be-
16 half of a beneficiary; or

17 “(B) the current balance of any account which
18 is established under such section for the purpose of
19 meeting the qualified higher education expenses of
20 the designated beneficiary of the account.”.

21 (2) CONFORMING AMENDMENT.—Section 480(j)
22 (20 U.S.C. 1087vv(j)) is amended—

23 (A) by striking “; TUITION PREPAYMENT
24 PLANS” in the heading of such subsection;

25 (B) by striking paragraph (2);

1 (C) in paragraph (3), by inserting “, or a
2 distribution that is not includable in gross in-
3 come under section 529 of such Code,” after
4 “1986”; and

5 (D) by redesignating paragraph (3) as
6 paragraph (2).

7 (g) TREATMENT OF FAMILY OWNERSHIP OF SMALL
8 BUSINESSES.—Section 480(f)(3) of the Higher Education
9 Act of 1965 (20 U.S.C. 1087vv(f)(3)), as redesignated by
10 subsection (f) of this section, is amended—

11 (1) in subparagraph (A), by striking “or”;

12 (2) in subparagraph (B), by striking the period
13 at the end and inserting “; or”; and

14 (3) by adding at the end the following new sub-
15 paragraph:

16 “(C) a small business with not more than 100
17 full-time or full-time equivalent employees (or any
18 part of such a small business) that is owned and
19 controlled by the family.”.

20 (h) DESIGNATED ASSISTANCE.—Section 480(j) (20
21 U.S.C. 1087vv(j)) is amended by adding after paragraph
22 (2) (as redesignated by subsection (f)(2)(D) of this sec-
23 tion) the following new paragraph:

24 “(3) Notwithstanding paragraph (1) and section 472,
25 assistance not received under this title may be excluded

1 from both estimated financial assistance and cost of at-
2 tendance, if that assistance is provided by a State and is
3 designated by such State to offset a specific component
4 of the cost of attendance. If that assistance is excluded
5 from either estimated financial assistance or cost of at-
6 tendance, it shall be excluded from both.”.

7 **SEC. 2127. DEFINITION OF ELIGIBLE PROGRAM.**

8 Section 481(b) (20 U.S.C. 1088(b)) is amended by
9 adding at the end the following new paragraph:

10 “(3) For purposes of this title, an eligible program
11 includes an instructional program that utilizes direct as-
12 sessment of student learning, or recognizes the direct as-
13 sessment of student learning, in lieu of credit hours or
14 clock hours as the measure of student learning. In the case
15 of a program being determined eligible for the first time
16 under this paragraph, such determination shall be made
17 by the Secretary before such program is considered to be
18 eligible. The Secretary shall provide an annual report to
19 Congress identifying the programs made eligible under
20 this paragraph.”.

21 **SEC. 2128. DISTANCE EDUCATION.**

22 (a) DISTANCE EDUCATION: ELIGIBLE PROGRAM.—
23 Section 481(b) (20 U.S.C. 1088(b)) is amended by adding
24 after paragraph (3) (as added by section 2127 of this Act)
25 the following new paragraph:

1 “(4) An otherwise eligible program that is offered in
2 whole or in part through telecommunications is eligible for
3 the purposes of this title if the program is offered by an
4 institution, other than a foreign institution, that has been
5 evaluated and determined (before or after the date of en-
6 actment of this paragraph) to have the capability to effec-
7 tively deliver distance education programs by an accred-
8 iting agency or association that—

9 “(A) is recognized by the Secretary under sub-
10 part 2 of Part H; and

11 “(B) has evaluation of distance education pro-
12 grams within the scope of its recognition, as de-
13 scribed in section 496(n)(3).”.

14 (b) CORRESPONDENCE COURSES.—Section 484(l)(1)
15 (20 U.S.C. 1091(l)(1)) is amended—

16 (1) in subparagraph (A)—

17 (A) by striking “for a program of study of
18 1 year or longer”; and

19 (B) by striking “unless the total” and all
20 that follows through “courses at the institu-
21 tion”; and

22 (2) by amending subparagraph (B) to read as
23 follows:

24 “(B) EXCEPTION.—Subparagraph (A)
25 does not apply to an institution or school de-

1 scribed in section 3(3)(C) of the Carl D. Per-
2 kins Vocational and Technical Education Act of
3 1998.”.

4 **SEC. 2129. STUDENT ELIGIBILITY.**

5 (a) FRAUD: REPAYMENT REQUIRED.—Section
6 484(a) (20 U.S.C. 1091(a)) is amended—

7 (1) by striking the period at the end of para-
8 graph (5) and inserting “; and”; and

9 (2) by adding at the end the following new
10 paragraph:

11 “(6) if the student has been convicted of, or has
12 pled nolo contendere or guilty to, a crime involving
13 fraud in obtaining funds under this title, have com-
14 pleted the repayment of such funds to the Secretary,
15 or to the holder in the case of a loan under this title
16 obtained by fraud.”.

17 (b) TECHNICAL AMENDMENT.—Section 484(b)(5)
18 (20 U.S.C. 1091(b)(5)) is amended by inserting “or par-
19 ent (on behalf of a student)” after “student”.

20 (c) LOAN INELIGIBILITY BASED ON INVOLUNTARY
21 CIVIL COMMITMENT FOR SEXUAL OFFENSES.—Section
22 484(b)(5) (20 U.S.C. 1091(b)(5)) is further amended by
23 inserting before the period the following: “, and no student
24 who is subject to an involuntary civil commitment upon
25 completion of a period of incarceration for a sexual offense

1 (as determined under regulations of the Secretary) is eligi-
2 ble to receive a loan under this title”.

3 (d) FREELY ASSOCIATED STATES.—Section 484(j)
4 (20 U.S.C. 1091(j)) is amended by inserting “and shall
5 be eligible only for assistance under subpart 1 of part A
6 thereafter,” after “part C,”.

7 (e) VERIFICATION OF INCOME DATE.—Paragraph
8 (1) of section 484(q) (20 U.S.C. 1091(q)) is amended to
9 read as follows:

10 “(1) CONFIRMATION WITH IRS.—The Secretary
11 of Education, in cooperation with the Secretary of
12 the Treasury, is authorized to confirm with the In-
13 ternal Revenue Service the information specified in
14 section 6103(l)(13) of the Internal Revenue Code of
15 1986 reported by applicants (including parents)
16 under this title on their Federal income tax returns
17 for the purpose of verifying the information reported
18 by applicants on student financial aid applications.”.

19 (f) SUSPENSION OF ELIGIBILITY FOR DRUG OF-
20 FENSES.—Section 484(r)(1) (20 U.S.C. 1091(r)(1)) is
21 amended by striking everything preceding the table and
22 inserting the following:

23 “(1) IN GENERAL.—A student who is convicted
24 of any offense under any Federal or State law in-
25 volving the possession or sale of a controlled sub-

1 stance for conduct that occurred during a period of
 2 enrollment for which the student was receiving any
 3 grant, loan, or work assistance under this title shall
 4 not be eligible to receive any grant, loan, or work as-
 5 sistance under this title from the date of that convic-
 6 tion for the period of time specified in the following
 7 table.”.

8 **SEC. 2130. INSTITUTIONAL REFUNDS.**

9 Section 484B (20 U.S.C. 1091b) is amended—

10 (1) in subsection (a)(1), by inserting “subpart
 11 4 of part A or” after “received under”;

12 (2) in subsection (a)(2), by striking “takes a
 13 leave” and by inserting “takes one or more leaves”;

14 (3) in subsection (a)(3)(B)(ii), by inserting “(as
 15 determined in accordance with subsection (d))” after
 16 “student has completed”;

17 (4) in subsection (a)(4), by amending subpara-
 18 graph (A) to read as follows:

19 “(A) IN GENERAL.—After determining the
 20 eligibility of the student for a late disbursement
 21 or post-withdrawal disbursement (as required in
 22 regulations prescribed by the Secretary), the in-
 23 stitution of higher education shall contact the
 24 borrower and obtain confirmation that the loan
 25 funds are still required by the borrower. In

1 making such contact, the institution shall ex-
2 plain to the borrower the borrower's obligation
3 to repay the funds following any such disburse-
4 ment. The institution shall document in the
5 borrower's file the result of such contact and
6 the final determination made concerning such
7 disbursement.”;

8 (5) in subsection (b)(1), by inserting “no later
9 than 45 days from the determination of withdrawal”
10 after “return”;

11 (6) in subsection (b)(2), by amending subpara-
12 graph (C) to read as follows:

13 “(C) GRANT OVERPAYMENT REQUIRE-
14 MENTS.—

15 “(i) IN GENERAL.—Notwithstanding
16 subparagraphs (A) and (B), a student
17 shall only be required to return grant as-
18 sistance in the amount (if any) by which—

19 “(I) the amount to be returned
20 by the student (as determined under
21 subparagraphs (A) and (B)), exceeds

22 “(II) 50 percent of the total
23 grant assistance received by the stu-
24 dent under this title for the payment
25 period or period of enrollment.

1 “(ii) MINIMUM.—A student shall not
 2 be required to return amounts of \$50 or
 3 less.”; and

4 (7) in subsection (d), by striking “(a)(3)(B)(i)”
 5 and inserting “(a)(3)(B)”.

6 **SEC. 2131. COLLEGE ACCESS INITIATIVE.**

7 Part G is further amended by inserting after section
 8 485C (20 U.S.C. 1092c) the following new section:

9 **“SEC. 485D. COLLEGE ACCESS INITIATIVE.**

10 “(a) STATE-BY-STATE INFORMATION.—The Sec-
 11 retary shall direct each guaranty agency with which the
 12 Secretary has an agreement under section 428(c) to pro-
 13 vide to the Secretary the information necessary for the de-
 14 velopment of web links and access for students and fami-
 15 lies to a comprehensive listing of the postsecondary edu-
 16 cation opportunities, programs, publications, Internet Web
 17 sites, and other services available in the States for which
 18 such agency serves as the designated guarantor.

19 “(b) GUARANTY AGENCY ACTIVITIES.—

20 “(1) PLAN AND ACTIVITY REQUIRED.—Each
 21 guaranty agency with which the Secretary has an
 22 agreement under section 428(c) shall develop a plan
 23 and undertake the activity necessary to gather the
 24 information required under subsection (a) and to
 25 make such information available to the public and to

1 the Secretary in a form and manner as prescribed
2 by the Secretary.

3 “(2) ACTIVITIES.—Each guaranty agency shall
4 undertake such activities as are necessary to pro-
5 mote access to postsecondary education for students
6 through providing information on college planning,
7 career preparation, and paying for college. The guar-
8 anty agency shall publicize such information and co-
9 ordinate such activities with other entities that ei-
10 ther provide or distribute such information in the
11 States for which such guaranty agency serves as the
12 designated guarantor.

13 “(3) FUNDING.—The activities required by this
14 section may be funded from the guaranty agency’s
15 operating account established pursuant to section
16 422B and, to the extent funds remain, from earn-
17 ings on the restricted account established pursuant
18 to section 422(h)(4).

19 “(c) ACCESS TO INFORMATION.—

20 “(1) SECRETARY’S RESPONSIBILITY.—The Sec-
21 retary shall ensure the availability of the information
22 provided by the guaranty agencies in accordance
23 with this section to students, parents, and other in-
24 terested individuals, through web links or other
25 methods prescribed by the Secretary.

1 “(2) GUARANTY AGENCY RESPONSIBILITY.—

2 The guaranty agencies shall ensure that the infor-
3 mation required by this section is available without
4 charge in printed format for students and parents
5 requesting such information.

6 “(3) PUBLICITY.—Within 270 days after the
7 date of enactment of the Higher Education Budget
8 Reconciliation Act of 2005, the Secretary and guar-
9 anty agencies shall publicize the availability of the
10 information required by this section, with special
11 emphasis on ensuring that populations that are tra-
12 ditionally underrepresented in postsecondary edu-
13 cation are made aware of the availability of such in-
14 formation.”.

15 **SEC. 2132. CANCELLATION OF STUDENT LOAN INDEBTED-**
16 **NESS FOR SURVIVORS OF VICTIMS OF THE**
17 **SEPTEMBER 11, 2001, ATTACKS.**

18 (a) DEFINITIONS.—For purposes of this section:

19 (1) ELIGIBLE PUBLIC SERVANT.—The term “el-
20 igible public servant” means an individual who, as
21 determined in accordance with regulations of the
22 Secretary—

23 (A) served as a police officer, firefighter,
24 other safety or rescue personnel, or as a mem-
25 ber of the Armed Forces; and

1 (B) died (or dies) or became (or becomes)
2 permanently and totally disabled due to injuries
3 suffered in the terrorist attacks on September
4 11, 2001.

5 (2) ELIGIBLE VICTIM.—The term “eligible vic-
6 tim” means an individual who, as determined in ac-
7 cordance with regulations of the Secretary, died (or
8 dies) or became (or becomes) permanently and to-
9 tally disabled due to injuries suffered in the terrorist
10 attacks on September 11, 2001.

11 (3) ELIGIBLE PARENT.—The term “eligible
12 parent” means the parent of an eligible victim if—

13 (A) the parent owes a Federal student loan
14 that is a consolidation loan that was used to
15 repay a PLUS loan incurred on behalf of such
16 eligible victim; or

17 (B) the parent owes a Federal student loan
18 that is a PLUS loan incurred on behalf of an
19 eligible victim.

20 (4) SECRETARY.—The term “Secretary” means
21 the Secretary of Education.

22 (5) FEDERAL STUDENT LOAN.—The term
23 “Federal student loan” means any loan made, in-
24 sured, or guaranteed under part B, D, or E of title
25 IV of the Higher Education Act of 1965.

1 (b) RELIEF FROM INDEBTEDNESS.—

2 (1) IN GENERAL.—The Secretary shall provide
3 for the discharge or cancellation of—

4 (A) the Federal student loan indebtedness
5 of the spouse of an eligible public servant, as
6 determined in accordance with regulations of
7 the Secretary, including any consolidation loan
8 that was used jointly by the eligible public serv-
9 ant and his or her spouse to repay the Federal
10 student loans of the spouse and the eligible
11 public servant;

12 (B) the portion incurred on behalf of the
13 eligible victim (other than an eligible public
14 servant), of a Federal student loan that is a
15 consolidation loan that was used jointly by the
16 eligible victim and his or her spouse, as deter-
17 mined in accordance with regulations of the
18 Secretary, to repay the Federal student loans of
19 the eligible victim and his or her spouse;

20 (C) the portion of the consolidation loan
21 indebtedness of an eligible parent that was in-
22 curred on behalf of an eligible victim; and

23 (D) the PLUS loan indebtedness of an eli-
24 gible parent that was incurred on behalf of an
25 eligible victim.

1 (2) METHOD OF DISCHARGE OR CANCELLA-
2 TION.—A loan required to be discharged or canceled
3 under paragraph (1) shall be discharged or canceled
4 by the method used under section 437(a), 455(a)(1),
5 or 464(c)(1)(F) of the Higher Education Act of
6 1965 (20 U.S.C. 1087(a), 1087e(a)(1),
7 1087dd(c)(1)(F)), whichever is applicable to such
8 loan.

9 (c) FACILITATION OF CLAIMS.—The Secretary
10 shall—

11 (1) establish procedures for the filing of appli-
12 cations for discharge or cancellation under this sec-
13 tion by regulations that shall be prescribed and pub-
14 lished within 90 days after the date of enactment of
15 this Act and without regard to the requirements of
16 section 553 of title 5, United States Code; and

17 (2) take such actions as may be necessary to
18 publicize the availability of discharge or cancellation
19 of Federal student loan indebtedness under this sec-
20 tion.

21 (d) AVAILABILITY OF FUNDS FOR PAYMENTS.—
22 Funds available for the purposes of making payments to
23 lenders in accordance with section 437(a) for the dis-
24 charge of indebtedness of deceased or disabled individuals

1 shall be available for making payments under section
2 437(a) to lenders of loans as required by this section.

3 (e) APPLICABLE TO OUTSTANDING DEBT.—The pro-
4 visions of this section shall be applied to discharge or can-
5 cel only Federal student loans (including consolidation
6 loans) on which amounts were owed on September 11,
7 2001. Nothing in this section shall be construed to author-
8 ize any refunding of any repayment of a loan.

9 **SEC. 2133. INDEPENDENT EVALUATION OF DISTANCE EDU-**
10 **CATION PROGRAMS.**

11 (a) INDEPENDENT EVALUATION.—The Secretary of
12 Education shall enter into an agreement with the National
13 Academy of Sciences to conduct a scientifically correct and
14 statistically valid evaluation of the quality of distance edu-
15 cation programs, as compared to campus-based education
16 programs, at institutions of higher education. Such eval-
17 uation shall include—

18 (1) identification of the elements by which the
19 quality of distance education, as compared to cam-
20 pus-based education, can be assessed, including ele-
21 ments such as subject matter, interactivity, and stu-
22 dent outcomes;

23 (2) identification of distance and campus-based
24 education program success, with respect to student

1 achievement, in relation to the mission of the insti-
2 tution of higher education; and

3 (3) identification of the types of students (in-
4 cluding classification of types of students based on
5 student age) who most benefit from distance edu-
6 cation programs, the types of students who most
7 benefit from campus-based education programs, and
8 the types of students who do not benefit from dis-
9 tance education programs, by assessing elements in-
10 cluding access to higher education, job placement
11 rates, undergraduate graduation rates, and graduate
12 and professional degree attainment rates.

13 (b) SCOPE.—The National Academy of Sciences shall
14 select for participation in the evaluation under subsection
15 (a) a diverse group of institutions of higher education with
16 respect to size, mission, and geographic distribution.

17 (c) INTERIM AND FINAL REPORTS.—The agreement
18 under subsection (a) shall require that the National Acad-
19 emy of Sciences submit to the Secretary of Education, the
20 Committee on Health, Education, Labor and Pensions of
21 the Senate, and the Committee on Education and the
22 Workforce of the House of Representatives—

23 (1) an interim report regarding the evaluation
24 under subsection (a) not later than December 31,
25 2007; and

1 (2) a final report regarding such evaluation not
2 later than December 31, 2009.

3 **SEC. 2134. DISBURSEMENT OF STUDENT LOANS.**

4 Section 422(d) of the Higher Education Amendments
5 of 1998 (Public Law 105–244; 112 Stat. 1696) is amend-
6 ed by adding at the end the following new sentence: “Such
7 amendments shall also be effective on and after July 1,
8 2006.”.

9 **PART 2—HIGHER EDUCATION RELIEF**

10 **SEC. 2141. REFERENCES.**

11 References in this part to “the Act” are references
12 to the Higher Education Act of 1965 (20 U.S.C. 1001
13 et seq.).

14 **SEC. 2142. WAIVERS AND MODIFICATIONS.**

15 Notwithstanding any other provision of law, unless
16 enacted with specific reference to this section, the Sec-
17 retary of Education is authorized to waive or modify any
18 statutory or regulatory provision applicable to the student
19 financial assistance programs under title IV of the Act,
20 or any student or institutional eligibility provisions in the
21 Act, as the Secretary of Education deems necessary in
22 connection with a Gulf hurricane disaster to ensure that—

23 (1) the calculation of expected family contribu-
24 tion under section 474 of the Act used in the deter-
25 mination of need for student financial assistance

1 under title IV of the Act for any affected student
2 (and the determination of such need for his or her
3 family, if applicable), is modified to reflect any
4 changes in the financial condition of such affected
5 student and his or her family resulting from a Gulf
6 hurricane disaster; and

7 (2) institutions of higher education, systems of
8 institutions, or consortia of institutions that are lo-
9 cated in an area affected by a Gulf hurricane dis-
10 aster, or that are serving affected students, are eligi-
11 ble, notwithstanding section 486(d) of the Act, to
12 apply for participation in the distance education
13 demonstration program under section 486 of the
14 Act, except that the Secretary of Education shall in-
15 clude in reports under section 486(f) of the Act an
16 identification of those institutions, systems, and con-
17 sortia that were granted participation in the dem-
18 onstration program due to a Gulf hurricane disaster.

19 **SEC. 2143. CANCELLATION OF INSTITUTIONAL REPAYMENT**
20 **BY COLLEGES AND UNIVERSITIES AFFECTED**
21 **BY A GULF HURRICANE DISASTER.**

22 Notwithstanding any provision of title IV of the Act
23 or any regulation issued thereunder, the Secretary of Edu-
24 cation shall cancel any obligation of an affected institution
25 to return or repay any funds the institution received be-

1 fore the date of enactment of this Act for, or on behalf
2 of, its students under subpart 1 or 3 of part A or parts
3 B, C, D, or E of title IV of the Act for any cancelled
4 enrollment period.

5 **SEC. 2144. CANCELLATION OF STUDENT LOANS FOR CAN-**
6 **CELLED ENROLLMENT PERIODS.**

7 (a) LOAN FORGIVENESS AUTHORIZED.—Notwith-
8 standing any provision of title IV of the Act, the Secretary
9 shall discharge all loan amounts under parts B and D of
10 title IV of the Act, and cancel any loan made under part
11 E of such title, disbursed to, or on behalf of, an affected
12 student for a cancelled enrollment period.

13 (b) REIMBURSEMENT.—The Secretary of Education
14 shall—

15 (1) reimburse each affected institution for any
16 amounts discharged under subsection (a) with re-
17 spect to a loan under part E of title IV of the Act
18 in the same manner as is required by section 465(b)
19 of the Act with respect to a loan cancelled under sec-
20 tion 465(a) of the Act; and

21 (2) reimburse lenders for the purpose of dis-
22 charging any loan amounts disbursed to, or on be-
23 half of, an affected student under part B of title IV
24 of the Act for a cancelled enrollment period.

1 (c) LIMITATION ON CONSOLIDATION LOANS.—A loan
2 amount for a loan made under section 428C of the Act
3 or a Federal Direct Consolidation Loan may be eligible
4 for discharge under this section only to the extent that
5 such loan amount was used to repay a loan to an affected
6 student for a cancelled enrollment period.

7 (d) CONSTRUCTION.—Nothing in this section shall be
8 construed to authorize any refunding of any repayment
9 of a loan.

10 **SEC. 2145. TEMPORARY DEFERMENT OF STUDENT LOAN**
11 **REPAYMENT.**

12 An affected individual who is a borrower of a quali-
13 fied student loan or a qualified parent loan shall be grant-
14 ed a deferment, not in excess of 6 months, during which
15 periodic installments of principal need not be paid, and
16 interest—

17 (1) shall accrue and be paid by the Secretary,
18 in the case of a loan made under section 428, 428B,
19 428C, or 428H of the Act;

20 (2) shall accrue and be paid by the Secretary
21 to the Perkins loan fund held by the institution of
22 higher education that made the loan, in the case of
23 a loan made under part E of title IV of the Act; and

24 (3) shall not accrue, in the case of a Federal
25 Direct Loan made under part D of such title.

1 **SEC. 2146. NO AFFECT ON GRANT AND LOAN LIMITS.**

2 Notwithstanding any provision of title IV of the Act
3 or any regulation issued thereunder, no grant or loan
4 funds received by an affected student under title IV of
5 the Act for a cancelled enrollment period shall be counted
6 against such affected student's annual or aggregate grant
7 or loan limits for the receipt of grants or loans under that
8 title.

9 **SEC. 2147. TEACHER LOAN RELIEF.**

10 The Secretary of Education may waive the require-
11 ment of sections 428J(b)(1) and 460(b)(1)(A) of the
12 Higher Education Act of 1965 that the 5 years of quali-
13 fying service be consecutive academic years for any teach-
14 er whose employment was interrupted if—

15 (1) the teacher was employed in qualifying serv-
16 ice, at the time of a Gulf hurricane disaster, in a
17 school located in an area affected by a Gulf hurri-
18 cane disaster; and

19 (2) the teacher resumes qualifying service not
20 later than the beginning of academic year 2006–
21 2007 in that school or any other school in which em-
22 ployment is qualifying service under such section.

23 **SEC. 2148. EXPANDING INFORMATION DISSEMINATION RE-**
24 **GARDING ELIGIBILITY FOR PELL GRANTS.**

25 (a) IN GENERAL.—The Secretary of Education shall
26 make special efforts, in conjunction with State efforts, to

1 notify affected students and if applicable, their parents,
2 who qualify for means-tested Federal benefit programs, of
3 their potential eligibility for a maximum Pell Grant, and
4 shall disseminate such informational materials as the Sec-
5 retary of Education deems appropriate.

6 (b) MEANS-TESTED FEDERAL BENEFIT PRO-
7 GRAM.—For the purpose of this section, the term “means-
8 tested Federal benefit program” means a mandatory
9 spending program of the Federal Government, other than
10 a program under the Act, in which eligibility for the pro-
11 gram’s benefits, or the amount of such benefits, or both,
12 are determined on the basis of income or resources of the
13 individual or family seeking the benefit, and may include
14 such programs as the supplemental security income pro-
15 gram under title XVI of the Social Security Act, the food
16 stamp program under the Food Stamp Act of 1977, the
17 free and reduced price school lunch program established
18 under the Richard B. Russell National School Lunch Act,
19 the temporary assistance to needy families program estab-
20 lished under part A of title IV of the Social Security Act,
21 and the women, infants, and children program established
22 under section 17 of the Child Nutrition Act of 1966, and
23 other programs identified by the Secretary of Education.

1 **SEC. 2149. PROCEDURES.**

2 (a) DEADLINES AND PROCEDURES.—Sections 482(c)
3 and 492 of the Act (20 U.S.C. 1089(c), 1098a) shall not
4 apply to any waivers, modifications, or actions initiated
5 by the Secretary of Education under this part.

6 (b) CASE-BY-CASE BASIS.—The Secretary of Edu-
7 cation is not required to exercise any waiver or modifica-
8 tion authority under this part on a case-by-case basis.

9 **SEC. 2150. TERMINATION OF AUTHORITY.**

10 The authority of the Secretary of Education to issue
11 waivers or modifications under this part shall expire at
12 the conclusion of the 2005–2006 academic year, but the
13 expiration of such authority shall not affect the continuing
14 validity of any such waivers or modifications after such
15 academic year.

16 **SEC. 2151. DEFINITIONS.**

17 For the purposes of this part, the following terms
18 have the following meanings:

19 (1) AFFECTED INDIVIDUAL.—The term “af-
20 fected individual” means an individual who has ap-
21 plied for or received student financial assistance
22 under title IV of the Higher Education Act of 1965,
23 and—

24 (A) who is an affected student; or

1 (B) whose primary place of employment or
2 residency was, as of August 29, 2005, in an
3 area affected by a Gulf hurricane disaster.

4 (2) AFFECTED INSTITUTION.—The term “af-
5 fected institution” means an institution of higher
6 education that—

7 (A) is located in an area affected by a Gulf
8 hurricane disaster; and

9 (B) has temporarily ceased operations as a
10 consequence of a Gulf hurricane disaster, as de-
11 termined by the Secretary of Education.

12 (3) AFFECTED STATE.—The term “affected
13 State” means the State of Alabama, Florida, Lou-
14 isiana, Mississippi, or Texas.

15 (4) AFFECTED STUDENT.—The term “affected
16 student” means an individual who has applied for or
17 received student financial assistance under title IV
18 of the Higher Education Act of 1965, and who—

19 (A) was enrolled or accepted for enroll-
20 ment, as of August 29, 2005, at an institution
21 of higher education in an area affected by a
22 Gulf hurricane disaster;

23 (B) was a dependent student enrolled or
24 accepted for enrollment at an institution of
25 higher education that is not in an area affected

1 by a Gulf hurricane disaster, but whose parents
2 resided or were employed, as of August 29,
3 2005, in an area affected by a Gulf hurricane
4 disaster; or

5 (C) was enrolled or accepted for enrollment
6 at an institution of higher education, as of Au-
7 gust 29, 2005, and whose attendance was inter-
8 rupted because of a Gulf hurricane disaster.

9 (5) AREA AFFECTED BY A GULF HURRICANE
10 DISASTER.—The term “area affected by a Gulf hur-
11 ricane disaster” means a county or parish, in an af-
12 fected State, that has been designated by the Fed-
13 eral Emergency Management Agency for disaster as-
14 sistance for individuals and households as a result of
15 Hurricane Katrina or Hurricane Rita.

16 (6) CANCELLED ENROLLMENT PERIOD.—The
17 term “cancelled enrollment period” means any pe-
18 riod of enrollment at an affected institution during
19 the academic year 2005.

20 (7) GULF HURRICANE DISASTER.—The term
21 “Gulf hurricane disaster” means a major disaster
22 that the President declared to exist, in accordance
23 with section 401 of the Robert T. Stafford Disaster
24 Relief and Emergency Assistance Act, and that was
25 caused by Hurricane Katrina or Hurricane Rita.

1 (8) INSTITUTION OF HIGHER EDUCATION.—The
 2 term “institution of higher education” has the
 3 meaning given such term in section 102 of the High-
 4 er Education Act of 1965, except that the term does
 5 not include institutions under subsection (a)(1)(C)
 6 of that section.

7 (9) QUALIFIED STUDENT LOAN.—The term
 8 “qualified student loan” means any loan made, in-
 9 sured, or guaranteed under part B, D, or E of title
 10 IV of the Higher Education Act of 1965, other than
 11 a loan under section 428B of such title or a Federal
 12 Direct Plus loan.

13 (10) QUALIFIED PARENT LOAN.—The term
 14 “qualified parent loan” means a loan made under
 15 section 428B of title IV of the Higher Education
 16 Act of 1965 or a Federal Direct Plus loan.

17 **Subtitle C—Pensions**

18 **SEC. 2201. INCREASES IN PBGC PREMIUMS.**

19 (a) FLAT-RATE PREMIUMS.—Clause (i) of section
 20 4006(a)(3)(A) of the Employee Retirement Income Secu-
 21 rity Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended
 22 by striking “\$19” and inserting “\$30”.

23 (b) ADJUSTMENT FOR INFLATION.—Paragraph (3)
 24 of section 4006(a) of such Act (29 U.S.C. 1306(a)) is

1 amended by adding at the end the following new subpara-
2 graph:

3 “(F) For each plan year beginning after 2006, there
4 shall be substituted for the \$30 dollar amount in subpara-
5 graph (A)(i) the amount equal to the product derived by
6 multiplying the premium rate, as in effect under this para-
7 graph immediately prior to such plan year for basic bene-
8 fits guaranteed by the corporation under section 4022 for
9 single-employer plans, by the ratio of—

10 “(i) the national average wage index (as defined
11 in section 209(k)(1) of the Social Security Act) for
12 the first of the 2 calendar years preceding the cal-
13 endar year in which such plan year begins, to

14 “(ii) the national average wage index (as so de-
15 fined) for the first of the 3 calendar years preceding
16 the calendar year in which the plan year begins,
17 with such product, if not a multiple of \$1, being rounded
18 to the next higher multiple of \$1 where such product is
19 a multiple of \$0.50 but not of \$1, and to the nearest mul-
20 tiple of \$1 in any other case.”.

21 (c) ADDITIONAL DISCRETIONARY INCREASE.—Para-
22 graph (3) of section 4006(a) of such Act (as amended by
23 subsection (b) of this section) is further amended by add-
24 ing at the end the following new subparagraph:

1 “(G)(i) The corporation may increase under this sub-
2 paragraph, effective for plan years commencing with or
3 during any calendar year after 2006, the premium rate
4 otherwise in effect under this section for basic benefits
5 guaranteed by it under section 4022 for single-employer
6 plans if the corporation determines that such increase is
7 necessary to achieve actuarial soundness in the plan termi-
8 nation insurance program under this title.

9 “(ii) The amount of any premium rate described in
10 clause (i), as increased under this subparagraph for plan
11 years commencing with or during any calendar year, may
12 not exceed by more than 20 percent the amount of the
13 premium rate, in effect under this paragraph for plan
14 years commencing with or during such calendar year for
15 basic benefits guaranteed by the corporation under section
16 4022 for single-employer plans, as determined for plan
17 years commencing with or during such calendar year with-
18 out regard to this subparagraph.

19 “(iii) The preceding provisions of this subparagraph
20 shall apply in connection with plan years commencing with
21 or during any calendar year only if—

22 “(I) the corporation transmits to each House of
23 the Congress and to the Comptroller General its pro-
24 posal for the increase in the premium rate for plan
25 years commencing with or during such calendar

1 year, subject to Congressional review under chapter
2 8 of title 5 of the United States Code (relating to
3 Congressional review of agency rulemaking) not later
4 than 120 calendar days after the beginning of the
5 preceding calendar year, and

6 “(II) a joint resolution disapproving such in-
7 crease has not been enacted as provided in section
8 802 of such title, within the 60-day period described
9 in section 802(a) of such title.

10 The proposal transmitted by the corporation shall include
11 a description of the methodologies and assumptions used
12 in formulating its proposal. At the time of the transmittal
13 of any such proposal to each House of the Congress pursu-
14 ant to subclause (I), the corporation shall transmit a copy
15 of such proposal to the Committee on Education and the
16 Workforce and the Committee on Ways and Means of the
17 House of Representatives and the Committee on Health,
18 Education, Labor, and Pensions and the Committee on Fi-
19 nance of the Senate. Any such proposal shall, for purposes
20 of chapter 8 of such title 5, be treated as a rule which
21 is a major rule.”.

22 (d) PREMIUM RATE FOR CERTAIN TERMINATED SIN-
23 GLE-EMPLOYER PLANS.—Subsection (a) of section 4006
24 of such Act (29 U.S.C. 1306) is amended by adding at
25 the end the following:

1 “(7) PREMIUM RATE FOR CERTAIN TERMINATED
2 SINGLE-EMPLOYER PLANS.—

3 “(A) IN GENERAL.—If there is a termination of
4 a single-employer plan under clause (ii) or (iii) of
5 section 4041(c)(2)(B) or section 4042, there shall be
6 payable to the corporation, with respect to each ap-
7 plicable 12-month period, a premium at a rate equal
8 to \$1,250 multiplied by the number of individuals
9 who were participants in the plan immediately before
10 the termination date. Such premium shall be in ad-
11 dition to any other premium under this section.

12 “(B) SPECIAL RULE FOR PLANS TERMINATED
13 IN BANKRUPTCY REORGANIZATION.—If the plan is
14 terminated under 4041(c)(2)(B)(ii) or under section
15 4042 and, as of the termination date, a person who
16 is (as of such date) a contributing sponsor of the
17 plan or a member of such sponsor’s controlled group
18 has filed or has had filed against such person a peti-
19 tion seeking reorganization in a case under title 11
20 of the United States Code, or under any similar law
21 of a State or a political subdivision of a State (or
22 a case described in section 4041(c)(2)(B)(i) filed by
23 or against such person has been converted, as of
24 such date, to such a case in which reorganization is
25 sought), subparagraph (A) shall not apply to such

1 plan until the date of the discharge of such person
2 in such case.

3 “(C) APPLICABLE 12-MONTH PERIOD.—For
4 purposes of subparagraph (A)—

5 “(i) IN GENERAL.—The term ‘applicable
6 12-month period’ means—

7 “(I) the 12-month period beginning
8 with the first month following the month
9 in which the termination date occurs, and

10 “(II) each of the first two 12-month
11 periods immediately following the period
12 described in subclause (I).

13 “(ii) PLANS TERMINATED IN BANKRUPTCY
14 REORGANIZATION.—In any case in which the
15 requirements of subparagraph (B) are met in
16 connection with the termination of the plan
17 with respect to 1 or more persons described in
18 such subparagraph, the 12-month period de-
19 scribed in clause (i)(I) shall be the 12-month
20 period beginning with the first month following
21 the month which includes the earliest date as of
22 which each such person is discharged in the
23 case described in such clause in connection with
24 such person.

25 “(D) COORDINATION WITH SECTION 4007.—

1 “(i) Notwithstanding section 4007—

2 “(I) premiums under this paragraph
3 shall be due within 30 days after the be-
4 ginning of any applicable 12-month period,
5 and

6 “(II) the designated payor shall be the
7 person who is the contributing sponsor as
8 of immediately before the termination date.

9 “(ii) The fifth sentence of section 4007(a)
10 shall not apply in connection with premiums de-
11 termined under this paragraph.”.

12 (e) CONFORMING AMENDMENTS.—

13 (1) Section 4006(a)(2) of such Act (29 U.S.C.
14 1306(a)(2)) is amended, in the matter following sub-
15 paragraph (E), by inserting “paragraph (3)(G) of
16 this subsection or” after “Except as provided in”.

17 (2) Section 4006(b)(1) of such Act (29 U.S.C.
18 1306(b)(1)) is amended by inserting “or a proposal
19 for a premium rate increase under subsection
20 (a)(3)(G)” after “or (E)”.

21 (f) EFFECTIVE DATES.—

22 (1) IN GENERAL.—Except as otherwise pro-
23 vided in this subsection, the amendments made by
24 this section shall apply to plan years beginning after
25 December 31, 2005.

1 (2) PREMIUM RATE FOR CERTAIN TERMINATED
2 SINGLE-EMPLOYER PLANS.—

3 (A) IN GENERAL.—Except as provided in
4 subparagraph (B), the amendment made by
5 subsection (d) shall apply with respect to termi-
6 nations for which the termination date occurs
7 on or after the date of the enactment of this
8 Act.

9 (B) TREATMENT OF CASES IN BANK-
10 RUPTCY.—In any case in which the require-
11 ments of subparagraph (B) of section
12 4007(a)(7) of the Employee Retirement Income
13 Security Act of 1974 (as added by subsection
14 (d)) are met in connection with the termination
15 of the plan with respect to 1 or more persons
16 described in such subparagraph, the amend-
17 ment made by subsection (d) shall apply with
18 respect to any such termination described in
19 such subparagraph (B), notwithstanding sub-
20 paragraph (A) of this paragraph, if the case
21 under title 11, United States Code, or under
22 any similar law of a State or political subdivi-
23 sion of a State (referred to in such subpara-
24 graph (B)) commenced after October 26, 2005.

1 (3) SPECIAL RULE IF SUBSEQUENT SAVINGS
 2 ENACTED.—The amendments made by this section
 3 shall not take effect if, after the date of enactment
 4 of this Act and before January 1, 2006, a Federal
 5 law is enacted which—

6 (A) provides for decreases in Federal out-
 7 lays which in the aggregate are less than the
 8 decreases in Federal outlays by reason of the
 9 amendments made by this section; and

10 (B) specifically provides that such de-
 11 creases are to be in lieu of the decreases in
 12 Federal outlays by reason of the amendments
 13 made by this section.

14 **TITLE III—COMMITTEE ON**
 15 **ENERGY AND COMMERCE**

Subtitle A—Medicaid

Sec. 3100. Short title of subtitle; rule of construction with regard to Katrina evacuees.

CHAPTER 1—PAYMENT FOR PRESCRIPTION DRUGS

Sec. 3101. Federal upper limit (FUL).

Sec. 3102. Collection and submission of utilization data for certain physician administered drugs.

Sec. 3103. Improved regulation of drugs sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act.

Sec. 3104. Children's hospital participation in section 340B drug discount program.

Sec. 3105. Improving patient outcomes through greater reliance on science and best practices.

CHAPTER 2—REFORM OF ASSET TRANSFER RULES

Sec. 3111. Lengthening look-back period; change in beginning date for period of ineligibility.

Sec. 3112. Disclosure and treatment of annuities and of large transactions.

- Sec. 3113. Application of “income-first” rule in applying community spouse’s income before assets in providing support of community spouse.
- Sec. 3114. Disqualification for long-term care assistance for individuals with substantial home equity.
- Sec. 3115. Enforceability of continuing care retirement communities (CCRC) and life care community admission contracts.

CHAPTER 3—FLEXIBILITY IN COST SHARING AND BENEFITS

- Sec. 3121. State option for alternative medicaid premiums and cost sharing.
- Sec. 3122. Special rules for cost sharing for prescription drugs.
- Sec. 3123. Emergency room copayments for non-emergency care.
- Sec. 3124. Use of benchmark benefit packages.
- Sec. 3125. State option to establish non-emergency medical transportation program.
- Sec. 3126. Exempting women covered under breast or cervical cancer program.

CHAPTER 4—EXPANDED ACCESS TO CERTAIN BENEFITS

- Sec. 3131. Expanded access to home and community-based services for the elderly and disabled.
- Sec. 3132. Optional choice of self-directed personal assistance services (cash and counseling).
- Sec. 3133. Expansion of State long-term care partnership program.
- Sec. 3134. Health opportunity accounts.

CHAPTER 5—OTHER PROVISIONS

- Sec. 3141. Increase in medicaid payments to insular areas.
- Sec. 3142. Managed care organization provider tax reform.
- Sec. 3143. Medicaid transformation grants.
- Sec. 3144. Enhancing third party identification and payment.
- Sec. 3145. Improved enforcement of documentation requirements.
- Sec. 3146. Reforms of targeted case management.
- Sec. 3147. Emergency services furnished by non-contract providers for medicaid managed care enrollees.
- Sec. 3148. Adjustment in computation of medicaid FMAP to disregard an extraordinary employer pension contribution.

Subtitle B—Katrina Health Care Relief

- Sec. 3201. Targeted medicaid relief for States affected by Hurricane Katrina.
- Sec. 3202. State high risk health insurance pool funding.
- Sec. 3203. Recomputation of HPSA, MUA, and MUP designations within Hurricane Katrina affected areas.
- Sec. 3204. Waiver of certain requirements applicable to the provision of health care in areas impacted by Hurricane Katrina.
- Sec. 3205. FMAP hold harmless for Katrina impact.

Subtitle C—Katrina and Rita Energy Relief

- Sec. 3301. Hurricanes Katrina and Rita energy relief.

Subtitle D—Digital Television Transition

- Sec. 3401. Short title.
- Sec. 3402. Findings.

Sec. 3403. Analog spectrum recovery: hard deadline.
 Sec. 3404. Auction of recovered spectrum.
 Sec. 3405. Digital Television Conversion Fund.
 Sec. 3406. Public Safety Interoperable Communications Fund.
 Sec. 3407. NYC 9/11 Digital Transition Fund.
 Sec. 3408. Low-power television transition provisions.
 Sec. 3409. Consumer education regarding analog televisions.
 Sec. 3410. Additional provisions.
 Sec. 3411. Deployment of broadband wireless technologies.
 Sec. 3412. Sense of Congress.
 Sec. 3413. Band plan revision required.

Subtitle A—Medicaid

SEC. 3100. SHORT TITLE OF SUBTITLE; RULE OF CONSTRUCTION WITH REGARD TO KATRINA EVACUEES.

(a) SHORT TITLE.—This subtitle may be cited as the “Medicaid Reconciliation Act of 2005”.

(b) RULE OF CONSTRUCTION WITH REGARD TO KATRINA EVACUEES.—None of the provisions of the following chapters of this subtitle shall apply during the 11-month period beginning September 1, 2005, to individuals entitled to medical assistance under title XIX of the Social Security Act by reason of their residence in a parish in the State of Louisiana, or a county in the State of Mississippi or Alabama, for which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) as a result of Hurricane Katrina and which the President has determined, before September 14, 2005, warrants individual and public assistance from the Federal Government under such Act.

**CHAPTER 1—PAYMENT FOR
PRESCRIPTION DRUGS**

SEC. 3101. FEDERAL UPPER LIMIT (FUL).

(a) IN GENERAL.—Subsection (e) of section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended to read as follows:

“(e) PHARMACY REIMBURSEMENT LIMITS.—

“(1) FEDERAL UPPER LIMIT FOR INGREDIENT
COST OF COVERED OUTPATIENT DRUGS.—

“(A) IN GENERAL.—Subject to subparagraph (B), no Federal financial participation shall be available for payment for the ingredient cost of a covered outpatient drug in excess of the Federal upper limit for that drug established under paragraph (2).

“(B) OPTIONAL CARVE OUT.—A State may elect not to apply subparagraph (A) to payment for either or both of the following:

“(i) Drugs dispensed by specialty pharmacies (such as those dispensing only immunosuppressive drugs), as defined by the Secretary.

“(ii) Drugs administered by a physician in a physician’s office.

“(2) FEDERAL UPPER LIMIT.—

“(A) IN GENERAL.—Except as provided in subparagraph (D) and subject to paragraph (5), the Federal upper limit established under this paragraph for the ingredient cost of a—

“(i) single source drug, is 106 percent of the RAMP (as defined in subparagraph (B)(i)) for that drug; and

“(ii) multiple source drug, is 120 percent of the volume weighted average RAMP (as determined under subparagraph (C)) for that drug.

A drug product that is a single source drug and that becomes a multiple source drug shall continue to be treated under this subsection as a single source drug until the Secretary determines that there are sufficient data to compile the volume weighted average RAMP for that drug.

“(B) RAMP AND RELATED PROVISIONS.—
For purposes of this subsection:

“(i) RAMP DEFINED.—The term ‘RAMP’ means, with respect to a covered outpatient drug by a manufacturer for a calendar quarter and subject to clauses (ii) and (iii), the average price paid to a manu-

1 facturer for the drug in the United States
2 in the quarter by wholesalers for drugs dis-
3 tributed to retail pharmacies, excluding
4 service fees that are paid by the manufac-
5 turer to an entity and that represent fair
6 market value for a bona-fide service pro-
7 vided by the entity.

8 “(ii) SALES EXEMPTED FROM COM-
9 PUTATION.—The RAMP under clause (i)
10 shall exclude any of the following:

11 “(I) Sales exempt from inclusion
12 in the determination of best price
13 under subsection (c)(1)(C)(i).

14 “(II) Such other sales as the Sec-
15 retary identifies as sales to an entity
16 that are merely nominal in amount
17 under subsection (c)(1)(C)(ii)(III).

18 “(iii) SALE PRICE NET OF DIS-
19 COUNTS.—In calculating the RAMP under
20 clause (i), such RAMP shall include any of
21 the following:

22 “(I) Cash discounts and volume
23 discounts.

24 “(II) Free goods that are contin-
25 gent upon any purchase requirement.

1 “(III) Sales at a nominal price
2 that are contingent upon any pur-
3 chase requirement or agreement.

4 “(IV) Chargebacks, rebates (not
5 including rebates provided under an
6 agreement under this section), or any
7 other direct or indirect discounts.

8 “(V) Any other price concessions,
9 which may be based on recommenda-
10 tions of the Inspector General of the
11 Department of Health and Human
12 Services, that would result in a reduc-
13 tion of the cost to the purchaser.

14 “(iv) RETAIL PHARMACY.—For pur-
15 poses of this subsection, the term ‘retail
16 pharmacy’ does not include mail-order only
17 pharmacies or any pharmacy at a nursing
18 facility or home.

19 “(C) VOLUME WEIGHTED AVERAGE RAMP
20 DEFINED.—For purposes of this subsection, for
21 all drug products included within the same mul-
22 tiple source drug billing and payment code (or
23 such other methodology as may be specified by
24 the Secretary), the volume weighted average
25 RAMP is the volume weighted average of the

1 RAMPs reported under subsection (b)(3)(A)(iv)
2 determined by—

3 “(i) computing the sum of the prod-
4 ucts (for each National Drug Code as-
5 signed to such drug products) of—

6 “(I) the manufacturer’s RAMP
7 (as defined in subparagraph (B)); and

8 “(II) the total number of units
9 specified under section 1847A(b)(2)
10 sold; and

11 “(ii) dividing the sum determined
12 under clause (i) by the sum of the total
13 number of units under clause (i)(II) for all
14 National Drug Codes assigned to such
15 drug products.

16 “(D) EXCEPTION FOR INITIAL SALES PE-
17 RIODS.—

18 “(i) IN GENERAL.—In the case of a
19 single source drug during an initial sales
20 period (not to exceed 2 calendar quarters)
21 in which data on sales for the drug are not
22 sufficiently available from the manufac-
23 turer to compute the RAMP or the volume
24 weighted average RAMP under subpara-
25 graph (C), the Federal upper limit for the

1 ingredient cost of such drug during such
2 period shall be the wholesale acquisition
3 cost (as defined in clause (ii)) for the drug.

4 “(ii) WHOLESALE ACQUISITION
5 COST.—For purposes of clause (i), the
6 term ‘wholesale acquisition cost’ means,
7 with respect to a single source drug, the
8 manufacturer’s list price for the drug to
9 wholesalers or direct purchasers in the
10 United States, not including prompt pay or
11 other discounts, rebates or reductions in
12 price, for the most recent month for which
13 the information is available, as reported in
14 wholesale price guides or other publications
15 of drug or biological pricing data.

16 “(E) UPDATES; DATA COLLECTION.—

17 “(i) FREQUENCY OF DETERMINA-
18 TION.—The Secretary shall update the
19 Federal upper limits applicable under this
20 paragraph on at least a quarterly basis,
21 taking into account the most recent data
22 collected for purposes of determining such
23 limits and the Food and Drug Administra-
24 tion’s most recent publication of ‘Approved

1 Drug Products with Therapeutic Equiva-
2 lence Evaluations’.

3 “(ii) COLLECTION OF DATA.—Data on
4 RAMP is collected under subsection
5 (b)(3)(A)(iv).

6 “(F) AUTHORITY TO ENTER CON-
7 TRACTS.—The Secretary may enter into con-
8 tracts with appropriate entities to determine
9 RAMPs and other data necessary to calculate
10 the Federal upper limit for a covered outpatient
11 drug established under this subsection and to
12 calculate that payment limit.

13 “(3) DISPENSING FEES.—

14 “(A) IN GENERAL.—A State which pro-
15 vides medical assistance for covered outpatient
16 drugs shall pay a dispensing fee for each cov-
17 ered outpatient drug in accordance with this
18 paragraph. A State may vary the amount of
19 such dispensing fees, including taking into ac-
20 count the special circumstances of pharmacies
21 that are serving rural or underserved areas or
22 that are sole community pharmacies, so long as
23 such variation is consistent with subparagraph
24 (B).

1 “(B) DISPENSING FEE PAYMENT FOR
2 MULTIPLE SOURCE DRUGS.—A State shall es-
3 tablish a dispensing fee under this title for a
4 covered outpatient drug that is treated as a
5 multiple source drug under paragraph (2)(A)
6 (whether or not it may be an innovator multiple
7 source drug) in an amount that is not less than
8 \$8 per prescription unit. The Secretary shall
9 define what constitutes a prescription unit for
10 purposes of the previous sentence.

11 “(4) EFFECT ON STATE MAXIMUM ALLOWABLE
12 COST LIMITATIONS.—This section shall not super-
13 sede or affect provisions in effect prior to January
14 1, 1991, or after December 31, 1994, relating to
15 any maximum allowable cost limitation established
16 by a State for payment by the State for covered out-
17 patient drugs, and rebates shall be made under this
18 section without regard to whether or not payment by
19 the State for such drugs is subject to such a limita-
20 tion or the amount of such a limitation.

21 “(5) EVALUATION OF USE OF RETAIL SURVEY
22 PRICE METHODOLOGY.—

23 “(A) IN GENERAL.—The Secretary may
24 develop a methodology to set the Federal upper
25 limit based on the reported retail survey price,

1 as most recently reported under subparagraph
2 (C), instead of a percentage of RAMP or vol-
3 ume weighted average RAMP as described in
4 paragraph (2).

5 “(B) INITIAL APPLICATION.—For 2007,
6 the Secretary may use this methodology for a
7 limited number of covered outpatient drugs, in-
8 cluding both single source and multiple source
9 drugs, selected by the Secretary in a manner so
10 as to be representative of the classes of drugs
11 dispensed under this title.

12 “(C) DETERMINATION OF RETAIL SURVEY
13 PRICE FOR COVERED OUTPATIENT DRUGS.—

14 “(i) USE OF VENDOR.—The Secretary
15 may contract services for the determina-
16 tion of retail survey prices for covered out-
17 patient drugs that represent a nationwide
18 average of pharmacy sales costs for such
19 drugs, net of all discounts and rebates.
20 Such a contract shall be awarded for a
21 term of 2 years.

22 “(ii) USE OF COMPETITIVE BID-
23 DING.—In contracting for such services,
24 the Secretary shall competitively bid for an

1 outside vendor that has a demonstrated
2 history in—

3 “(I) surveying and determining,
4 on a representative nationwide basis,
5 retail prices for ingredient costs of
6 prescription drugs;

7 “(II) working with retail phar-
8 macies, commercial payers, and States
9 in obtaining and disseminating such
10 price information; and

11 “(III) collecting and reporting
12 such price information on at least a
13 monthly basis.

14 “(iii) ADDITIONAL PROVISIONS.—A
15 contract with a vendor under this subpara-
16 graph shall include such terms and condi-
17 tions as the Secretary shall specify, includ-
18 ing the following:

19 “(I) The vendor must monitor
20 the marketplace and report to the
21 Secretary each time there is a new
22 covered outpatient drug available na-
23 tionwide.

24 “(II) The vendor must update
25 the Secretary no less often than

1 monthly on the retail survey prices for
2 multiple source drugs.

3 “(III) The vendor must apply
4 methods for independently confirming
5 retail survey prices.

6 “(iv) AVAILABILITY OF INFORMATION
7 TO STATES.—Information on retail survey
8 prices obtained under this subparagraph,
9 including applicable information on single
10 source drugs, shall be provided to States
11 on an ongoing, timely basis.

12 “(D) STATE USE OF RETAIL SURVEY
13 PRICE DATA.—

14 “(i) DISTRIBUTION OF PRICE DATA.—
15 The Secretary shall devise and implement
16 a means for electronic distribution to each
17 State agency designated under section
18 1902(a)(5) with responsibility for the ad-
19 ministration or supervision of the adminis-
20 tration of the State plan under this title of
21 the retail survey price determined under
22 this paragraph.

23 “(ii) AUTHORITY TO ESTABLISH PAY-
24 MENT RATES BASED ON DATA.—A State
25 may use the price data received in accord-

1 ance with clause (i) in establishing pay-
2 ment rates for the ingredient costs and dis-
3 pensing fees for covered outpatient drugs
4 dispensed to individuals eligible for medical
5 assistance under this title.

6 “(6) LIMITATION ON JUDICIAL REVIEW.—There
7 shall be no administrative or judicial review of—

8 “(A) the Secretary’s determinations of
9 Federal upper limits, RAMPs, and volume
10 weighted average RAMPs under this subsection,
11 including the assignment of National Drug
12 Codes to billing and payment classes;

13 “(B) the Secretary’s disclosure to States of
14 the average manufacturer prices, RAMPs, vol-
15 ume weighted average RAMPs, and retail sur-
16 vey prices;

17 “(C) determinations under this subsection
18 by the Secretary of covered outpatient drugs
19 which are dispensed by a specialty pharmacy or
20 administered by a physician in a physician’s of-
21 fice;

22 “(D) the contracting and calculations proc-
23 ess under this subsection; and

1 “(E) the method to allocate rebates,
2 chargebacks, and other price concessions to a
3 quarter if specified by the Secretary.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) REPORTING RAMP-RELATED INFORMA-
6 TION.—Subsection (b)(3)(A) of such section is
7 amended—

8 (A) by striking “and” at the end of clause
9 (ii);

10 (B) by striking the period at the end of
11 clause (iii) and inserting “; and”; and

12 (C) by inserting after clause (iii) the fol-
13 lowing new clause:

14 “(iv) for calendar quarters beginning on or
15 after July 1, 2006, in conjunction with report-
16 ing required under clause (i) and by National
17 Drug Code (including package size)—

18 “(I) the manufacturer’s RAMP (as
19 defined in subsection (e)(2)(B)(i)) and the
20 total number of units required to compute
21 the volume weighted average RAMP under
22 subsection (e)(2)(C);

23 “(II) if required to make payment
24 under subsection (e)(2)(D), the manufac-

1 turer’s wholesale acquisition cost, as de-
 2 fined in clause (ii) of such subsection; and
 3 “(III) information on those sales that
 4 were made at a nominal price or otherwise
 5 described in subsection (e)(2)(B)(ii)(II);
 6 for all covered outpatient drugs.”.

7 (2) DISCLOSURE TO STATES.—Subsection
 8 (b)(3)(D) of such section is amended—

9 (A) by striking “and” at the end of clause
 10 (ii);

11 (B) by striking the period at the end of
 12 clause (iii) and inserting “, and”; and

13 (C) by inserting after clause (iii) the fol-
 14 lowing new clause:

15 “(iv) to States to carry out this
 16 title.”.

17 (3) LIMITATIONS ON FEDERAL FINANCIAL PAR-
 18 TICIPATION.—Section 1903(i) of such Act (42
 19 U.S.C. 1396b(i)) is amended—

20 (A) in paragraph (10)(A), by striking
 21 “and” at the end;

22 (B) in paragraph (10)(B), by striking “or”
 23 at the end and inserting “and”;

24 (C) by adding at the end of paragraph
 25 (10) the following:

1 “(C) with respect to any amount expended for
2 the ingredient cost of a covered outpatient drug that
3 exceeds the Federal upper limit for that drug estab-
4 lished and applied under section 1927(e); or”; and

5 (D) in paragraph (21), as inserted by sec-
6 tion 104(b) of Public Law 109–91, by inserting
7 before the period at the end the following: “or
8 described in subparagraph (B) or (C) of section
9 1927(d)(2)”.

10 (c) EFFECTIVE DATE.—Except as otherwise pro-
11 vided, the amendments made by this section take effect
12 with respect to a State on the later of—

13 (1) January 1, 2007; or

14 (2) the date that is 6 months after the close of
15 the first regular session of the State legislature that
16 begins after the date of the enactment of this Act.

17 (d) GAO STUDY ON DISPENSING FEES.—The Comp-
18 troller General of the United States shall conduct a study
19 on the appropriateness in payment levels to pharmacies
20 for dispensing fees under the medicaid program, including
21 payment to specialty pharmacies. Not later than 9 months
22 after the date of the enactment of this Act, the Comp-
23 troller General shall submit to Congress a report on such
24 study.

1 (e) IG REPORT ON USE OF RAMP AND RETAIL SUR-
 2 VEY PRICES.—Not later than 2 years after the date of
 3 the enactment of this Act, the Inspector General of the
 4 Department of Health and Human Services shall submit
 5 to Congress a report on the appropriateness of using
 6 RAMPs and retail survey prices, rather than the average
 7 manufacturer prices or other price measures, as the basis
 8 for establishing a Federal upper limit for reimbursement
 9 for covered outpatient drugs under the medicaid program.

10 **SEC. 3102. COLLECTION AND SUBMISSION OF UTILIZATION**

11 **DATA FOR CERTAIN PHYSICIAN ADMINIS-**
 12 **TERED DRUGS.**

13 (a) IN GENERAL.—Section 1927(a) of the Social Se-
 14 curity Act (42 U.S.C. 1396r–8(a)) is amended by adding
 15 at the end the following new paragraph:

16 “(7) REQUIREMENT FOR SUBMISSION OF UTILI-
 17 ZATION DATA FOR CERTAIN PHYSICIAN ADMINIS-
 18 TERED DRUGS.—

19 “(A) SINGLE SOURCE DRUGS.—In order
 20 for payment to be available under section
 21 1903(a) for a covered outpatient drug that is a
 22 single source drug that is physician adminis-
 23 tered (as determined by the Secretary), and
 24 that is administered on or after January 1,
 25 2006, the State shall provide for the submission

1 of such utilization data and coding (such as J-
2 codes and National Drug Code numbers) for
3 each such drug as the Secretary may specify as
4 necessary to identify the manufacturer of the
5 drug in order to secure rebates under this sec-
6 tion for drugs administered for which payment
7 is made under this title.

8 “(B) MULTIPLE SOURCE DRUGS.—

9 “(i) IN GENERAL.—Not later than
10 January 1, 2007, the information shall be
11 submitted under subparagraph (A) using
12 National Drug Code codes unless the Sec-
13 retary specifies that an alternative coding
14 system should be used.

15 “(ii) IDENTIFICATION OF MOST FRE-
16 QUENTLY PHYSICIAN ADMINISTERED MUL-
17 TIPLE SOURCE DRUGS.—Not later than
18 January 1, 2007, the Secretary shall pub-
19 lish a list of the 20 physician administered
20 multiple source drugs that the Secretary
21 determines have the highest dollar volume
22 of physician administered drugs dispensed
23 under this title. The Secretary may modify
24 such list from year to year to reflect
25 changes in such volume.

1 “(iii) REQUIREMENT.—In order for
2 payment to be available under section
3 1903(a) for a covered outpatient drug that
4 is a multiple source drug that is physician
5 administered (as determined by the Sec-
6 retary), that is on the list published under
7 clause (ii), and that is administered on or
8 after January 1, 2008, the State shall pro-
9 vide for the submission of such utilization
10 data and coding (such as J-codes and Na-
11 tional Drug Code numbers) for each such
12 drug as the Secretary may specify as nec-
13 essary to identify the manufacturer of the
14 drug in order to secure rebates under this
15 section.

16 “(C) HARDSHIP WAIVER.—The Secretary may
17 delay the application of subparagraph (A) or (B), or
18 both, in the case of a State to prevent hardship to
19 States which require additional time to implement
20 the reporting system required under the respective
21 subparagraph.”.

22 (b) LIMITATION ON PAYMENT.—Section 1903(i)(10)
23 of such Act (42 U.S.C. 1396b(i)(10)), as amended by sec-
24 tion 3101(b)(3), is amended—

1 (1) by striking “and” at the end of subpara-
2 graph (B);

3 (2) by striking “or” at the end of subparagraph
4 (C) and inserting “and”; and

5 (3) by adding at the end the following new sub-
6 paragraph:

7 “(D) with respect to covered outpatient drugs
8 described in section 1927(a)(7), unless information
9 respecting utilization data and coding on such drugs
10 that is required to be submitted under such section
11 is submitted in accordance with such section; or”.

12 **SEC. 3103. IMPROVED REGULATION OF DRUGS SOLD**
13 **UNDER A NEW DRUG APPLICATION AP-**
14 **PROVED UNDER SECTION 505(c) OF THE FED-**
15 **ERAL FOOD, DRUG, AND COSMETIC ACT.**

16 (a) INCLUSION WITH OTHER REPORTED AVERAGE
17 MANUFACTURER AND BEST PRICES.—Section
18 1927(b)(3)(A) of the Social Security Act (42 U.S.C.
19 1396r–8(b)(3)(A)) is amended—

20 (1) by striking clause (i) and inserting the fol-
21 lowing:

22 “(i) not later than 30 days after the
23 last day of each rebate period under the
24 agreement—

1 “(I) on the average manufacturer
2 price (as defined in subsection (k)(1))
3 for covered outpatient drugs for the
4 rebate period under the agreement
5 (including for all such drugs that are
6 sold under a new drug application ap-
7 proved under section 505(c) of the
8 Federal Food, Drug, and Cosmetic
9 Act); and

10 “(II) for single source drugs and
11 innovator multiple source drugs (in-
12 cluding all such drugs that are sold
13 under a new drug application ap-
14 proved under section 505(c) of the
15 Federal Food, Drug, and Cosmetic
16 Act), on the manufacturer’s best price
17 (as defined in subsection (c)(1)(C))
18 for such drugs for the rebate period
19 under the agreement;” and

20 (2) in clause (ii), by inserting “(including for
21 such drugs that are sold under a new drug applica-
22 tion approved under section 505(c) of the Federal
23 Food, Drug, and Cosmetic Act)” after “drugs”.

24 (b) CONFORMING AMENDMENTS.—Section 1927 of
25 such Act (42 U.S.C. 1396r–8) is amended—

1 (1) in subsection (c)(1)(C)—

2 (A) in clause (i), in the matter preceding
3 subclause (I), by inserting after “or innovator
4 multiple source drug of a manufacturer” the
5 following: “(including any other such drug of a
6 manufacturer that is sold under a new drug ap-
7 plication approved under section 505(c) of the
8 Federal Food, Drug, and Cosmetic Act)”; and

9 (B) in clause (ii)—

10 (i) in subclause (II), by striking
11 “and” at the end;

12 (ii) in subclause (III), by striking the
13 period at the end and inserting “; and”;
14 and

15 (iii) by adding at the end the fol-
16 lowing:

17 “(IV) in the case of a manufac-
18 turer that approves, allows, or other-
19 wise permits any other drug of the
20 manufacturer to be sold under a new
21 drug application approved under sec-
22 tion 505(c) of the Federal Food,
23 Drug, and Cosmetic Act, shall be in-
24 clusive of the lowest price for such au-
25 thorized drug available from the man-

1 manufacturer during the rebate period to
2 any wholesaler, retailer, provider,
3 health maintenance organization, non-
4 profit entity, or governmental entity
5 within the United States, excluding
6 those prices described in subclauses
7 (I) through (IV) of clause (i).”; and

8 (2) in subsection (k)—

9 (A) in paragraph (1)—

10 (i) by striking “The term” and insert-
11 ing the following:

12 “(A) IN GENERAL.—The term”; and

13 (ii) by adding at the end the fol-
14 lowing:

15 “(B) INCLUSION OF SECTION 505(c)
16 DRUGS.—In the case of a manufacturer that
17 approves, allows, or otherwise permits any drug
18 of the manufacturer to be sold under a new
19 drug application approved under section 505(c)
20 of the Federal Food, Drug, and Cosmetic Act,
21 such term shall be inclusive of the average price
22 paid for such authorized drug by wholesalers
23 for drugs distributed to the retail pharmacy
24 class of trade, after deducting customary
25 prompt pay discounts.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of the enactment
3 of this Act.

4 **SEC. 3104. CHILDREN’S HOSPITAL PARTICIPATION IN SEC-**
5 **TION 340B DRUG DISCOUNT PROGRAM.**

6 (a) IN GENERAL.—Section 1927(a)(5)(B) of the So-
7 cial Security Act (42 U.S.C. 1396r–8(a)(5)(B)) is amend-
8 ed by inserting before the period at the end the following:
9 “and a children’s hospital described in section
10 1886(d)(1)(B)(iii) which meets the requirements of
11 clauses (i) and (iii) of section 340B(b)(4)(L) of the Public
12 Health Service Act and which would meet the require-
13 ments of clause (ii) of such section if that clause were ap-
14 plied by taking into account the percentage of care pro-
15 vided by the hospital to patients eligible for medical assist-
16 ance under a State plan under this title”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall apply to drugs purchased on or after
19 the date of the enactment of this Act.

20 **SEC. 3105. IMPROVING PATIENT OUTCOMES THROUGH**
21 **GREATER RELIANCE ON SCIENCE AND BEST**
22 **PRACTICES.**

23 (a) IN GENERAL.—Section 1927 of Social Security
24 Act (42 U.S.C. 1396r–8) is amended—

25 (1) in subsection (d)(5)—

1 (A) in the matter before subparagraph (A),
2 by striking “providing for such approval—” and
3 inserting “providing for such approval meets
4 the following requirements:”;

5 (B) in subparagraph (A)—

6 (i) by inserting “The system” before
7 “provides”; and

8 (ii) by striking “; and” and inserting
9 a period;

10 (C) in subparagraph (B)—

11 (i) by striking “except” and inserting
12 “Except”; and

13 (ii) by inserting “the system” before
14 “provides”; and

15 (D) by adding at the end the following new
16 subparagraphs:

17 “(C) The system provides that an atypical
18 antipsychotic or antidepressant single source
19 drug may be placed on a list of drugs subject
20 to prior authorization only where a drug use re-
21 view board has determined, based on the
22 strength of the scientific evidence and stand-
23 ards of practice, including assessing peer-re-
24 viewed medical literature, pharmacoeconomic
25 studies, outcomes research data and such other

1 information as the board determines to be ap-
2 propriate, that placing the drug on prior ap-
3 proval or otherwise imposing restrictions on its
4 use is not likely to harm patients or increase
5 overall medical costs.

6 “(D) The system provides that where a re-
7 sponse is not received to a request for author-
8 ization of an atypical antipsychotic or
9 antidepressant drug prescribed within 24 hours
10 after the prescription is transmitted, payment is
11 made for a 30 day supply of a medication that
12 the prescriber certifies is medically necessary.”;
13 and

14 (2) in subsection (g)(3)(C), by inserting after
15 clause (iii) the following new clause:

16 “(iv) The development and oversight
17 of prior authorization programs described
18 in subsection (d)(5).”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 subsection (a) shall take effect on January 1, 2007.

**CHAPTER 2—REFORM OF ASSET
TRANSFER RULES**

**SEC. 3111. LENGTHENING LOOK-BACK PERIOD; CHANGE IN
BEGINNING DATE FOR PERIOD OF INELIGI-
BILITY.**

(a) LENGTHENING LOOK-BACK PERIOD FOR ALL DISPOSALS TO 5 YEARS.—Section 1917(c)(1)(B)(i) of the Social Security Act (42 U.S.C. 1396p(c)(1)(B)(i)) is amended by inserting “or in the case of any other disposal of assets made on or after the date of the enactment of the Medicaid Reconciliation Act of 2005” before “, 60 months”.

(b) CHANGE IN BEGINNING DATE FOR PERIOD OF INELIGIBILITY.—Section 1917(c)(1)(D) of such Act (42 U.S.C. 1396p(c)(1)(D)) is amended—

(1) by striking “(D) The date” and inserting “(D)(i) In the case of a transfer of asset made before the date of the enactment of the Medicaid Reconciliation Act of 2005, the date”; and

(2) by adding at the end the following new clause:

“(ii) In the case of a transfer of asset made on or after the date of the enactment of the Medicaid Reconciliation Act of 2005, the date specified in this subparagraph is the first day of a month during or after which assets

1 have been transferred for less than fair market value, or
2 the date on which the individual is eligible for medical as-
3 sistance under the State plan and is receiving services de-
4 scribed in subparagraph (C) but for the application of the
5 penalty period, whichever is later, and which does not
6 occur during any other period of ineligibility under this
7 subsection.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to transfers made on or after the
10 date of the enactment of this Act.

11 (d) AVAILABILITY OF HARDSHIP WAIVERS.—Each
12 State shall provide for a hardship waiver process in ac-
13 cordance with section 1917(c)(2)(D) of the Social Security
14 Act (42 U.S.C. 1396p(c)(2)(D))—

15 (1) under which an undue hardship exists when
16 application of the transfer of assets provision would
17 deprive the individual—

18 (A) of medical care such that the individ-
19 ual’s health or life would be endangered; or

20 (B) of food, clothing, shelter, or other ne-
21 cessities of life; and

22 (2) which provides for—

23 (A) notice to recipients that an undue
24 hardship exception exists;

1 (B) a timely process for determining
2 whether an undue hardship waiver will be
3 granted; and

4 (C) a process under which an adverse de-
5 termination can be appealed.

6 (e) ADDITIONAL PROVISIONS ON HARDSHIP WAIV-
7 ERS.—

8 (1) APPLICATION BY FACILITY.—Section
9 1917(c)(2) of the Social Security Act (42 U.S.C.
10 1396p(c)(2)) is amended—

11 (A) by striking the semicolon at the end of
12 subparagraph (D) and inserting a period; and

13 (B) by adding after and below such subpara-
14 graph the following:

15 “The procedures established under subparagraph
16 (D) shall permit the facility in which the institu-
17 tionalized individual is residing to file an undue
18 hardship waiver application on behalf of the indi-
19 vidual with the consent of the individual or the legal
20 guardian of the individual.”.

21 (2) AUTHORITY TO MAKE BED HOLD PAYMENTS
22 FOR HARDSHIP APPLICANTS.—Such section is further
23 amended by adding at the end the following: “While an
24 application for an undue hardship waiver is pending under
25 subparagraph (D) in the case of an individual who is a

1 resident of a nursing facility, if the application meets such
 2 criteria as the Secretary specifies, the State may provide
 3 for payments for nursing facility services in order to hold
 4 the bed for the individual at the facility, but not in excess
 5 of payments for 30 days.”.

6 **SEC. 3112. DISCLOSURE AND TREATMENT OF ANNUITIES**
 7 **AND OF LARGE TRANSACTIONS.**

8 (a) IN GENERAL.—Section 1917 of the Social Secu-
 9 rity Act (42 U.S.C. 1396p) is amended by redesignating
 10 subsection (e) as subsection (f) and by inserting after sub-
 11 section (d) the following new subsection:

12 “(e)(1) In order to meet the requirements of this sec-
 13 tion for purposes of section 1902(a)(18), a State shall re-
 14 quire, as a condition for the provision of medical assist-
 15 ance for services described in subsection (c)(1)(C)(i) (re-
 16 lating to long-term care services) for an individual, the ap-
 17 plication of the individual for such assistance (including
 18 any recertification of eligibility for such assistance) shall
 19 disclose the following:

20 “(A) A description of any interest the individual
 21 or community spouse has in an annuity (or similar
 22 financial instrument which provides for the conver-
 23 sion of a countable asset to a noncountable asset, as
 24 may be specified by the Secretary), regardless of

1 whether the annuity is irrevocable or is treated as an
2 asset.

3 “(B) Full information (as specified by the Sec-
4 retary) concerning any transaction involving the
5 transfer or disposal of assets during the previous pe-
6 riod of 60 months, if the transaction exceeded
7 \$100,000, without regard to whether the transfer or
8 disposal was for fair market value. For purposes of
9 applying the previous sentence under this subsection,
10 all transactions of \$5,000 or more occurring within
11 a 12-month period shall be treated as a single trans-
12 action. The dollar amounts specified in the first and
13 second sentences of this subparagraph shall be in-
14 creased, beginning with 2007, from year to year
15 based on the percentage increase in the consumer
16 price index for all urban consumers (all items;
17 United States city average), rounded to the nearest
18 \$1,000 in the case of the first sentence and \$100 in
19 the case of the second sentence.

20 Such application or recertification form shall include a
21 statement that under paragraph (2) the State becomes a
22 remainder beneficiary under such an annuity or similar
23 financial instrument by virtue of the provision of such
24 medical assistance.

1 “(2)(A) In the case of any annuity in which an insti-
2 tutionalized individual or community spouse has an inter-
3 est, if medical assistance is furnished to the individual for
4 services described in subsection (c)(1)(C)(i), by virtue of
5 the provision of such assistance the State becomes the re-
6 mainder beneficiary in the first position for the total
7 amount of such medical assistance paid on behalf of the
8 individual under this title (or, where there is a community
9 spouse or minor or disabled child in such first position,
10 in the position immediately succeeding the position of such
11 spouse or child or both).

12 “(B) In the case of disclosure concerning an annuity
13 under paragraph (1)(A), the State shall notify the issuer
14 of the annuity of the right of the State under subpara-
15 graph (A) as a preferred remainder beneficiary in the an-
16 nuity for medical assistance furnished to the individual.
17 Nothing in this paragraph shall be construed as pre-
18 venting such an issuer from notifying persons with any
19 other remainder interest of the State’s remainder interest
20 under subparagraph (A).

21 “(C) In the case of such an issuer receiving notice
22 under subparagraph (B), the State may require the issuer
23 to notify the State when there is a change in the amount
24 of income or principal being withdrawn from the amount
25 that was being withdrawn at the time of the most recent

1 disclosure described in paragraph (1)(A). A State shall
2 take such information into account in determining the
3 amount of the State's obligations for medical assistance
4 or in the individual's eligibility for such assistance.

5 “(3)(A) For purposes of subsection (c)(1), a trans-
6 action described in paragraph (1)(B) shall be deemed as
7 the transfer of an asset for less than fair market value
8 unless the individual demonstrates to the satisfaction of
9 the State that the transfer of the asset was for fair market
10 value.

11 “(B) The Secretary may provide guidance to States
12 on categories of arms length transactions (such as the pur-
13 chase of a commercial annuity) that could be generally
14 treated as a transfer of asset for fair market value.

15 “(4) Nothing in this subsection shall be construed as
16 preventing a State from denying eligibility for medical as-
17 sistance for an individual based on the income or resources
18 derived from an annuity described in paragraph (1)(A).”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to transactions (including the pur-
21 chase of an annuity) occurring on or after the date of the
22 enactment of this Act.

1 **SEC. 3113. APPLICATION OF “INCOME-FIRST” RULE IN AP-**
2 **PLYING COMMUNITY SPOUSE’S INCOME BE-**
3 **FORE ASSETS IN PROVIDING SUPPORT OF**
4 **COMMUNITY SPOUSE.**

5 (a) IN GENERAL.—Section 1924(d) of the Social Se-
6 curity Act (42 U.S.C. 1396r–5(d)) is amended by adding
7 at the end the following new paragraph:

8 “(6) APPLICATION OF ‘INCOME FIRST’ RULE
9 FOR FUNDING COMMUNITY SPOUSE MONTHLY IN-
10 COME ALLOWANCE.—For purposes of this subsection
11 and subsection (e), any transfer or allocation made
12 from an institutionalized spouse to meet the need of
13 a community spouse for a community spouse month-
14 ly income allowance under paragraph (1)(B) shall be
15 first made from income of the institutionalized
16 spouse and then only when the income is not avail-
17 able from the resources of such institutionalized
18 spouse.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall apply to transfers and allocations
21 made on or after the date of the enactment of this Act
22 by individuals who become institutionalized spouses on or
23 after such date.

1 **SEC. 3114. DISQUALIFICATION FOR LONG-TERM CARE AS-**
2 **SISTANCE FOR INDIVIDUALS WITH SUBSTAN-**
3 **TIAL HOME EQUITY.**

4 (a) IN GENERAL.—Section 1917 of the Social Secu-
5 rity Act, as amended by section 3112, is further amended
6 by redesignating subsection (f) as subsection (g) and by
7 inserting after subsection (e) the following new subsection:

8 “(f)(1) Notwithstanding any other provision of this
9 title, subject to paragraph (2), in determining eligibility
10 of an individual for medical assistance with respect to
11 nursing facility services or other long-term care services,
12 the individual shall not be eligible for such assistance if
13 the individual’s equity interest in the individual’s home ex-
14 ceeds \$500,000. The dollar amount specified in the pre-
15 ceding sentence shall be increased, beginning with 2011,
16 from year to year based on the percentage increase in the
17 consumer price index for all urban consumers (all items;
18 United States city average), rounded to the nearest
19 \$1,000.

20 “(2) Paragraph (1) shall not apply with respect to
21 an individual if—

22 “(A) the spouse of such individual, or

23 “(B) such individual’s child who is under age
24 21, or (with respect to States eligible to participate
25 in the State program established under title XVI) is
26 blind or permanently and totally disabled, or (with

1 respect to States which are not eligible to participate
 2 in such program) is blind or disabled as defined in
 3 section 1614,

4 is lawfully residing in the individual's home.

5 “(3) Nothing in this subsection shall be construed as
 6 preventing an individual from using a reverse mortgage
 7 or home equity loan to reduce the individual's total equity
 8 interest in the home.

9 “(4) The Secretary shall establish a process whereby
 10 paragraph (1) is waived in the case of a demonstrated
 11 hardship.”.

12 (b) EFFECTIVE DATE.—The amendment made by
 13 subsection (a) shall apply to individuals who are deter-
 14 mined eligible for medical assistance with respect to nurs-
 15 ing facility services or other long-term care services based
 16 on an application filed on or after January 1, 2006.

17 **SEC. 3115. ENFORCEABILITY OF CONTINUING CARE RE-**
 18 **TIREMENT COMMUNITIES (CCRC) AND LIFE**
 19 **CARE COMMUNITY ADMISSION CONTRACTS.**

20 (a) ADMISSION POLICIES OF NURSING FACILITIES.—
 21 Section 1919(c)(5) of the Social Security Act (42 U.S.C.
 22 1396r(c)(5)) is amended—

23 (1) in subparagraph (A)(i)(II), by inserting
 24 “subject to clause (v),” after “(II)”; and

1 (2) by adding at the end of subparagraph (B)
2 the following new clause:

3 “(v) TREATMENT OF CONTINUING
4 CARE RETIREMENT COMMUNITIES ADMIS-
5 SION CONTRACTS.—Notwithstanding sub-
6 clause (II) of subparagraph (A)(i), subject
7 to subsections (c) and (d) of section 1924,
8 contracts for admission to a State licensed,
9 registered, certified, or equivalent con-
10 tinuing care retirement community or life
11 care community, including services in a
12 nursing facility that is part of such com-
13 munity, may require residents to spend on
14 their care resources declared for the pur-
15 poses of admission before applying for
16 medical assistance.”.

17 (b) TREATMENT OF ENTRANCE FEES.—Section
18 1917 of such Act (42 U.S.C. 1396p), as amended by sec-
19 tions 3112(a) and 3114(a), is amended by redesignating
20 subsection (g) as subsection (h) and by inserting after
21 subsection (f) the following new subsection:

22 “(g) TREATMENT OF ENTRANCE FEES OF INDIVID-
23 UALS RESIDING IN CONTINUING CARE RETIREMENT
24 COMMUNITIES.—

1 “(1) IN GENERAL.—For purposes of deter-
2 mining an individual’s eligibility for, or amount of,
3 benefits under a State plan under this title, the rules
4 specified in paragraph (2) shall apply to individuals
5 residing in continuing care retirement communities
6 or life care communities that collect an entrance fee
7 on admission from such individuals.

8 “(2) TREATMENT OF ENTRANCE FEE.—For
9 purposes of this subsection, an individual’s entrance
10 fee in a continuing care retirement community or
11 life care community shall be considered a resource
12 available to the individual to the extent that—

13 “(A) the individual has the ability to use
14 the entrance fee, or the contract provides that
15 the entrance fee may be used, to pay for care
16 should other resources or income of the indi-
17 vidual be insufficient to pay for such care;

18 “(B) the individual is eligible for a refund
19 of any remaining entrance fee when the indi-
20 vidual dies or terminates the continuing care re-
21 tirement community or life care community
22 contract and leaves the community; and

23 “(C) the entrance fee does not confer an
24 ownership interest in the continuing care retire-
25 ment community or life care community.

11 SEC. 3121. STATE OPTION FOR ALTERNATIVE MEDICAID
12 PREMIUMS AND COST SHARING.

16 “STATE OPTION FOR ALTERNATIVE PREMIUMS AND COST
17 SHARING

“(1) IN GENERAL.—Notwithstanding sections 1916 and 1902(a)(10)(B), a State, at its option and through a State plan amendment, may impose premiums and cost sharing for any group of individuals (as specified by the State) and for any type of services (and may vary such premiums and cost sharing among such groups or types, including through the use of tiered cost sharing for prescription drugs)

1 consistent with the limitations established under this
2 section. Nothing in this section shall be construed as
3 superseding (or preventing the application of) sec-
4 tion 1916(g).

5 “(2) DEFINITIONS.—In this section:

6 “(A) PREMIUM.—The term ‘premium’ in-
7 cludes any enrollment fee or similar charge.

8 “(B) COST SHARING.—The term ‘cost
9 sharing’ includes any deduction, deductible, co-
10 payment, or similar charge.

11 “(b) LIMITATIONS ON EXERCISE OF AUTHORITY.—

12 “(1) INDIVIDUALS WITH FAMILY INCOME
13 BELOW 100 PERCENT OF POVERTY LEVEL.—In the
14 case of an individual whose family income does not
15 exceed 100 percent of the Federal poverty level ap-
16 plicable to a family of the size involved, subject to
17 subsections (c)(2) and (e)(2)(A), the limitations oth-
18 erwise provided under subsections (a) and (b) of sec-
19 tion 1916 shall continue to apply and no premium
20 will be imposed under the plan, except that the total
21 annual aggregate amount of cost sharing imposed
22 (including any increased cost sharing imposed under
23 subsection (c) or (e)) for all individuals in the family
24 may not exceed 5 percent of the family income of
25 the family involved for the year involved.

1 “(2) INDIVIDUALS WITH FAMILY INCOME
2 ABOVE 100 PERCENT OF POVERTY LEVEL.—In the
3 case of an individual whose family income exceeds
4 100 percent of the Federal poverty level applicable
5 to a family of the size involved, the total annual ag-
6 gregate amount of premiums and cost sharing im-
7 posed (including any increase and cost sharing im-
8 posed under subsection (c) or (e)) for all individuals
9 in the family may not exceed 5 percent of the family
10 income of the family involved for the year involved.

11 “(3) ADDITIONAL LIMITATIONS.—

12 “(A) PREMIUMS.—No premiums shall be
13 imposed under this section with respect to the
14 following:

15 “(i) Individuals under 18 years of age
16 that are required to be provided medical
17 assistance under section 1902(a)(10)(A)(i),
18 and including individuals with respect to
19 whom adoption or foster care assistance is
20 made available under part E of title IV
21 without regard to age.

22 “(ii) Pregnant women.

23 “(iii) Any terminally ill individual who
24 is receiving hospice care (as defined in sec-
25 tion 1905(o)).

1 “(iv) Any individual who is an inpa-
2 tient in a hospital, nursing facility, inter-
3 mediate care facility for the mentally re-
4 tarded, or other medical institution, if such
5 individual is required, as a condition of re-
6 ceiving services in such institution under
7 the State plan, to spend for costs of med-
8 ical care all but a minimal amount of the
9 individual’s income required for personal
10 needs.

11 “(B) COST SHARING.—Subject to the suc-
12 ceeding provisions of this section, no cost shar-
13 ing shall be imposed under this section with re-
14 spect to the following:

15 “(i) Services furnished to individuals
16 under 18 years of age that are required to
17 be provided medical assistance under sec-
18 tion 1902(a)(10)(A)(i), and including serv-
19 ices furnished to individuals with respect
20 to whom adoption or foster care assistance
21 is made available under part E of title IV
22 without regard to age.

23 “(ii) Preventive services (such as well
24 baby and well child care and immuniza-

1 tions) provided to children under 18 years
2 of age regardless of family income.

3 “(iii) Services furnished to pregnant
4 women, if such services relate to the preg-
5 nancy or to any other medical condition
6 which may complicate the pregnancy.

7 “(iv) Services furnished to a termi-
8 nally ill individual who is receiving hospice
9 care (as defined in section 1905(o)).

10 “(v) Services furnished to any indi-
11 vidual who is an inpatient in a hospital,
12 nursing facility, intermediate care facility
13 for the mentally retarded, or other medical
14 institution, if such individual is required,
15 as a condition of receiving services in such
16 institution under the State plan, to spend
17 for costs of medical care all but a minimal
18 amount of the individual’s income required
19 for personal needs.

20 “(vi) Emergency services (as defined
21 by the Secretary for purposes of section
22 1916(a)(2)(D)).

23 “(vii) Family planning services and
24 supplies described in section
25 1905(a)(4)(C).

1 “(C) CONSTRUCTION.—Nothing in this
2 paragraph shall be construed as preventing a
3 State from exempting additional classes of indi-
4 viduals from premiums under this section or
5 from exempting additional individuals or serv-
6 ices from cost sharing under this section.

7 “(4) INDEXING NOMINAL AMOUNTS.—In apply-
8 ing section 1916 under paragraph (1) with respect
9 to cost sharing that is ‘nominal’ in amount—

10 “(A) the Secretary shall phase-in an in-
11 crease in such amount over a 3 year period (be-
12 ginning January 1, 2006) so that—

13 “(i) a \$3 nominal amount in 2005
14 would be increased to be a \$5 nominal
15 amount in 2008; and

16 “(ii) other nominal amounts would be
17 increased by a proportional amount (with
18 appropriate rounding) during such period;
19 and

20 “(B) the Secretary shall increase such
21 ‘nominal’ amounts for each subsequent year
22 (beginning with 2009) by the annual percentage
23 increase in the medical care component of the
24 consumer price index for all urban consumers

1 (U.S. city average) as rounded up in an appro-
2 priate manner.

3 “(5) DETERMINATIONS OF FAMILY INCOME.—

4 In applying this subsection, family income shall be
5 determined in a manner specified by the State for
6 purposes of this subsection, including the use of
7 such disregards as the State may provide. Family in-
8 come shall be determined for such period and at
9 such periodicity as the State may provide under this
10 title.

11 “(6) POVERTY LINE DEFINED.—For purposes
12 of this section, the term ‘poverty line’ has the mean-
13 ing given such term in section 673(2) of the Com-
14 munity Services Block Grant Act (42 U.S.C.
15 9902(2)), including any revision required by such
16 section.

17 “(7) CONSTRUCTION.—Nothing in this section
18 shall be construed—

19 “(A) as preventing a State from further
20 limiting the premiums and cost sharing imposed
21 under this section beyond the limitations pro-
22 vided under this subsection;

23 “(B) as affecting the authority of the Sec-
24 retary through waiver to modify limitations on

1 premiums and cost sharing under this sub-
2 section; or

3 “(C) as affecting any such waiver of re-
4 quirements in effect under this title before the
5 date of the enactment of this section with re-
6 gard to the imposition of premiums and cost
7 sharing.

8 “(d) ENFORCEABILITY OF PREMIUMS AND OTHER
9 COST SHARING.—

10 “(1) PREMIUMS.—Notwithstanding section
11 1916(c)(3) and section 1902(a)(10)(B), a State
12 may, at its option, condition the provision of medical
13 assistance for an individual upon prepayment of a
14 premium authorized to be imposed under this sec-
15 tion, or may terminate eligibility for such medical
16 assistance on the basis of failure to pay such a pre-
17 mium but shall not terminate eligibility of an indi-
18 vidual for medical assistance under this title on the
19 basis of failure to pay any such premium until such
20 failure continues for a period of not less than 60
21 days. A State may apply the previous sentence for
22 some or all groups of beneficiaries as specified by
23 the State and may waive payment of any such pre-
24 mium in any case where the State determines that

1 requiring such payment would create an undue hard-
2 ship.

3 “(2) COST SHARING.—Notwithstanding section
4 1916(e) or any other provision of law, a State may
5 permit a provider participating under the State plan
6 to require, as a condition for the provision of care,
7 items, or services to an individual entitled to medical
8 assistance under this title for such care, items, or
9 services, the payment of any cost sharing authorized
10 to be imposed under this section with respect to
11 such care, items, or services. Nothing in this para-
12 graph shall be construed as preventing a provider
13 from reducing or waiving the application of such
14 cost sharing.”.

15 (b) CONFORMING AMENDMENT.—Section 1916(f) of
16 such Act (42 U.S.C. 1396o(f)) is amended by inserting
17 “and section 1916A” after “(b)(3)”.

18 (c) GAO STUDY OF IMPACT OF PREMIUMS AND COST
19 SHARING.—The Comptroller General of the United States
20 shall conduct a study on the impact of premiums and cost
21 sharing under the medicaid program on access to, and uti-
22 lization of, services. Not later than January 1, 2008, the
23 Comptroller General shall submit to Congress a report on
24 such study.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to cost sharing imposed for items
3 and services furnished on or after January 1, 2006.

4 **SEC. 3122. SPECIAL RULES FOR COST SHARING FOR PRE-**
5 **SCRIPTION DRUGS.**

6 (a) IN GENERAL.—Section 1916A of the Social Secu-
7 rity Act, as inserted by section 3121, is amended by insert-
8 ing after subsection (b) the following new subsection:

9 “(c) SPECIAL RULES FOR COST SHARING FOR PRE-
10SCRIPTION DRUGS.—

11 “(1) IN GENERAL.—In order to encourage
12 beneficiaries to use drugs (in this subsection referred
13 to as ‘preferred drugs’) identified by the State as the
14 least (or less) costly effective prescription drugs
15 within a class of drugs (as defined by the State),
16 with respect to one or more groups of beneficiaries
17 specified by the State, subject to paragraphs (2) and
18 (5), the State may—

19 “(A) provide an increase in cost sharing
20 (above the nominal level otherwise permitted
21 under section 1916 or subsection (b), but sub-
22 ject to paragraphs (2) and (3)) with respect to
23 drugs that are not preferred drugs within a
24 class; and

1 “(B) waive or reduce the cost sharing oth-
2 erwise applicable for preferred drugs within
3 such class and shall not apply any such cost
4 sharing for such preferred drugs for individuals
5 for whom cost sharing may not otherwise be im-
6 posed under subsection (b)(3)(B).

7 “(2) LIMITATIONS.—

8 “(A) BY INCOME GROUP AS A MULTIPLE
9 OF NOMINAL AMOUNTS.—In no case may the
10 increase in cost sharing under paragraph (1)(A)
11 with respect to a non-preferred drug exceed, in
12 the case of an individual whose family income
13 is—

14 “(i) below 100 percent of the poverty
15 line applicable to a family of the size in-
16 volved, the amount of nominal cost sharing
17 (as otherwise determined under subsection
18 (b));

19 “(ii) at least 100 percent, but below
20 150 percent, of the poverty line applicable
21 to a family of the size involved, two times
22 the amount of nominal cost sharing (as
23 otherwise determined under subsection
24 (b)); or

1 “(iii) at least 150 percent of the pov-
2 erty line applicable to a family of the size
3 involved, three times the amount of nomi-
4 nal cost sharing (as otherwise determined
5 under subsection (b)).

6 “(B) LIMITATION TO NOMINAL FOR EX-
7 EMPT POPULATIONS.—In the case of an indi-
8 vidual who is otherwise not subject to cost shar-
9 ing due to the application of subsection (b)(3),
10 any increase in cost sharing under paragraph
11 (1)(A) with respect to a non-preferred drug
12 may not exceed a nominal amount (as otherwise
13 determined under subsection (b)).

14 “(C) CONTINUED APPLICATION OF AGGRE-
15 GATE CAP.—In addition to the limitations im-
16 posed under subparagraphs (A) and (B), any
17 increase in cost sharing under paragraph (1)(A)
18 continues to be subject to the aggregate cap on
19 cost sharing applied under paragraph (1) or (2)
20 of subsection (b), as the case may be.

21 “(D) TRICARE PHARMACY BENEFIT PRO-
22 GRAM LIMITATIONS.—In no case may a State—

23 “(i) treat as a non-preferred drug
24 under this subsection a drug that is treat-
25 ed as a preferred drug under the

1 TRICARE pharmacy benefit program es-
2 tablished under section 1074g of title 10,
3 United States Code, as such program is in
4 effect on the date of the enactment of this
5 section; or

6 “(ii) impose cost sharing under this
7 subsection that exceeds the cost sharing
8 imposed under the standards under such
9 pharmacy benefit program, as such pro-
10 gram is in effect as of the date of the en-
11 actment of this section.

12 “(3) WAIVER.—In carrying out paragraph (1),
13 a State shall provide for the application of cost shar-
14 ing levels applicable to a preferred drug in the case
15 of a drug that is not a preferred drug if the pre-
16 scribing physician determines that the preferred
17 drug for treatment of the same condition either
18 would not be as effective for the individual or would
19 have adverse effects for the individual or both.

20 “(4) EXCLUSION AUTHORITY.—Nothing in this
21 subsection shall be construed as preventing a State
22 from excluding from paragraph (1) specified drugs
23 or classes of drugs.

24 “(5) PRIOR AUTHORIZATION AND APPEALS
25 PROCESS.—A State may not provide for increased

1 cost sharing under this subsection unless the State
2 has implemented for outpatient prescription drugs a
3 system for prior authorization and an appeals proc-
4 ess for determinations relating to prior authoriza-
5 tion.”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 subsection (a) shall apply to cost sharing imposed for
8 items and services furnished on or after October 1, 2006.

9 **SEC. 3123. EMERGENCY ROOM COPAYMENTS FOR NON-**
10 **EMERGENCY CARE.**

11 (a) IN GENERAL.—Section 1916A of the Social Secu-
12 rity Act, as inserted by section 3121 and as amended by
13 section 3122, is further amended by adding at the end
14 the following new subsection:

15 “(e) STATE OPTION FOR IMPOSING COST SHARING
16 FOR NON-EMERGENCY CARE FURNISHED IN AN HOS-
17 PITAL EMERGENCY ROOM.—

18 “(1) IN GENERAL.—Notwithstanding section
19 1916 or the previous provisions of this section, but
20 subject to the limitations of paragraph (2), a State
21 may, by amendment to its State plan under this
22 title, impose cost sharing for non-emergency services
23 furnished to an individual (within one or more
24 groups of individuals specified by the State) in a

1 hospital emergency department under this subsection
2 if the following conditions are met:

3 “(A) ACCESS TO NON-EMERGENCY ROOM
4 PROVIDER.—The individual has actually avail-
5 able and accessible (as such terms are applied
6 by the Secretary under section 1916(b)(3)) an
7 alternate non-emergency services provider with
8 respect to such services.

9 “(B) NOTICE.—The physician or hospital
10 must inform the beneficiary after the appro-
11 priate screening assessment, but before pro-
12 viding the non-emergency services, of the fol-
13 lowing:

14 “(i) The hospital may require the pay-
15 ment of the State specified cost sharing
16 before the service can be provided.

17 “(ii) The name and location of an al-
18 ternate non-emergency services provider
19 (described in subparagraph (A)) that is ac-
20 tually available and accessible (as described
21 in such subparagraph).

22 “(iii) The fact that such alternate
23 provider can provide the services without
24 the imposition of the increase in cost shar-
25 ing described in clause (i).

1 “(iv) The hospital provides a referral
2 to coordinate scheduling of this treatment.
3 Nothing in this subsection shall be construed as
4 preventing a State from applying (or waiving)
5 cost sharing otherwise permissible under this
6 section to services described in clause (iii).

7 “(2) LIMITATIONS.—

8 “(A) FOR POOREST BENEFICIARIES.—In
9 the case of an individual described in subsection
10 (b)(1), the cost sharing imposed under this sub-
11 section may not exceed twice the amount deter-
12 mined to be nominal under this section, subject
13 to the percent of income limitation otherwise
14 applicable under subsection (b)(1).

15 “(B) APPLICATION TO EXEMPT POPU-
16 LATIONS.—In the case of an individual who is
17 otherwise not subject to cost sharing under sub-
18 section (b)(3), a State may impose cost sharing
19 under paragraph (1) for care in an amount that
20 does not exceed a nominal amount (as otherwise
21 determined under subsection (b)) so long as no
22 cost sharing is imposed to receive such care
23 through an outpatient department or other al-
24 ternative health care provider in the geographic

1 area of the hospital emergency department in-
2 volved.

3 “(C) CONTINUED APPLICATION OF AGGRE-
4 GATE CAP.—In addition to the limitations im-
5 posed under subparagraphs (A) and (B), any
6 increase in cost sharing under paragraph (1)
7 continues to be subject to the aggregate cap on
8 cost sharing applied under paragraph (1) or (2)
9 of subsection (b), as the case may be.

10 “(3) CONSTRUCTION.—Nothing in this section
11 shall be construed—

12 “(A) to limit a hospital’s obligations with
13 respect to screening and stabilizing treatment
14 of an emergency medical condition under sec-
15 tion 1867; or

16 “(B) to modify any obligations under ei-
17 ther State or Federal standards relating to the
18 application of a prudent-layperson standard
19 with respect to payment or coverage of emer-
20 gency services by any managed care organiza-
21 tion.

22 “(4) DETERMINATION STANDARD.—No hospital
23 or physician that makes a determination with re-
24 spect to the imposition of cost sharing under this
25 subsection shall be liable in any civil action or pro-

1 ceeding for such determination absent a finding by
2 clear and convincing evidence of gross negligence by
3 the hospital or physician. The previous sentence
4 shall not affect any liability under section 1867 or
5 otherwise applicable under State law based upon the
6 provision (or failure to provide) care.

7 “(5) DEFINITIONS.—For purposes of this sub-
8 section:

9 “(A) NON-EMERGENCY SERVICES.—The
10 term ‘non-emergency services’ means any care
11 or services furnished in a emergency depart-
12 ment of a hospital that the physician deter-
13 mines do not constitute an appropriate medical
14 screening examination or stabilizing examina-
15 tion and treatment screening required to be
16 provided by the hospital under section 1867.

17 “(B) ALTERNATE NON-EMERGENCY SERV-
18 ICES PROVIDER.—The term ‘alternative non-
19 emergency services provider’ means, with re-
20 spect to non-emergency services for the diag-
21 nosis or treatment of a condition, a health care
22 provider, such as a physician’s office, health
23 care clinic, community health center, hospital
24 outpatient department, or similar health care
25 provider, that provides clinically appropriate

1 services for such diagnosis or treatment of the
2 condition within a clinically appropriate time of
3 the provision of such non-emergency services
4 and that is participating in the program under
5 this title.”.

6 (b) GRANT FUNDS FOR ESTABLISHMENT OF ALTER-
7 NATE NON-EMERGENCY SERVICES PROVIDERS.—Section
8 1903 of the Social Security Act (42 U.S.C. 1396b) is
9 amended by adding at the end the following new sub-
10 section:

11 “(x) PAYMENTS FOR ESTABLISHMENT OF ALTER-
12 NATE NON-EMERGENCY SERVICES PROVIDERS.—

13 “(1) PAYMENTS.—In addition to the payments
14 otherwise provided under subsection (a), subject to
15 paragraph (2), the Secretary shall provide for pay-
16 ments to States under such subsection for the estab-
17 lishment of alternate non-emergency service pro-
18 viders (as defined in section 1916A(f)(5)(B)), or
19 networks of such providers.

20 “(2) LIMITATION.—The total amount of pay-
21 ments under this subsection shall be equal to, and
22 shall not exceed, \$100,000,000 during the four-year
23 period beginning with 2006. This subsection con-
24 stitutes budget authority in advance of appropria-
25 tions Acts and represents the obligation of the Sec-

1 retary to provide for the payment of amounts pro-
2 vided under this subsection.

3 “(3) PREFERENCE.—In providing for payments
4 to States under this subsection, the Secretary shall
5 provide preference to States that establish, or pro-
6 vide for, alternate non-emergency services providers
7 or networks of such providers that—

8 “(A) serve rural or underserved areas
9 where beneficiaries under this title may not
10 have regular access to providers of primary care
11 services; or

12 “(B) are in partnership with local commu-
13 nity hospitals.

14 “(4) FORM AND MANNER OF PAYMENT.—Pay-
15 ment to a State under this subsection shall be made
16 only upon the filing of such application in such form
17 and in such manner as the Secretary shall specify.
18 Payment to a State under this subsection shall be
19 made in the same manner as other payments under
20 section 1903(a).”.

21 “(c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to non-emergency services fur-
23 nished on or after the date of the enactment of this Act.

1 **SEC. 3124. USE OF BENCHMARK BENEFIT PACKAGES.**

2 Title XIX of the Social Security Act is amended by
3 redesignating section 1936 as section 1937 and by insert-
4 ing after section 1935 the following new section:

5 “STATE FLEXIBILITY IN BENEFIT PACKAGES

6 “SEC. 1936. (a) STATE OPTION OF PROVIDING
7 BENCHMARK BENEFITS.—

8 “(1) AUTHORITY.—

9 “(A) IN GENERAL.—Notwithstanding any
10 other provision of this title, a State, at its op-
11 tion as a State plan amendment, may provide
12 for medical assistance under this title to indi-
13 viduals within one or more groups of individuals
14 specified by the State through enrollment in
15 coverage that provides—

16 “(i) benchmark coverage described in
17 subsection (b)(1) and, for a qualifying
18 child, benchmark dental coverage as de-
19 fined in subparagraph (F); or

20 “(ii) benchmark equivalent coverage
21 described in subsection (b)(2) and, for a
22 qualifying child, benchmark dental cov-
23 erage as defined in subparagraph (F).

24 “(B) LIMITATION.—The State may only
25 exercise the option under subparagraph (A) for

1 eligibility categories that had been established
2 before the date of the enactment of this section.

3 “(C) OPTION OF WRAP-AROUND BENE-
4 FITS.—In the case of coverage described in sub-
5 paragraph (A), a State, at its option, may pro-
6 vide such wrap-around or additional benefits as
7 the State may specify.

8 “(D) TREATMENT AS MEDICAL ASSIST-
9 ANCE.—Payment of premiums for such cov-
10 erage under this subsection shall be treated as
11 payment of other insurance premiums described
12 in the third sentence of section 1905(a).

13 “(E) QUALIFYING CHILD DEFINED.—For
14 purposes of subparagraph (A), the term ‘quali-
15 fying child’ means a child under 18 years of age
16 with a family income below 133 percent of the
17 poverty line applicable to a family of the size in-
18 volved.

19 “(F) BENCHMARK DENTAL COVERAGE.—
20 For purposes of subparagraph (A), the term
21 ‘benchmark dental coverage’ means, with re-
22 spect to a State, dental benefits coverage that
23 is equivalent to or better than the dental cov-
24 erage offered under the dental benefit plan that
25 covers the greatest number of individuals in the

1 State who are not entitled to medical assistance
2 under this title.

3 “(2) APPLICATION.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), a State may require that a
6 full-benefit eligible individual (as defined in
7 subparagraph (C)) within a group obtain bene-
8 fits under this title through enrollment in cov-
9 erage described in paragraph (1)(A). A State
10 may apply the previous sentence to individuals
11 within one or more groups of such individuals.

12 “(B) LIMITATION ON APPLICATION.—A
13 State may not require under subparagraph (A)
14 an individual to obtain benefits through enroll-
15 ment described in paragraph (1)(A) if the indi-
16 vidual is within one of the following categories
17 of individuals:

18 “(i) MANDATORY PREGNANT WOMEN
19 AND CHILDREN.—The individual is a preg-
20 nant woman or child under 18 years of age
21 who is required to be covered under the
22 State plan under section
23 1902(a)(10)(A)(i).

1 “(ii) DUAL ELIGIBLES.—The indi-
2 vidual is entitled to benefits under any
3 part of title XVIII.

4 “(iii) TERMINALLY ILL HOSPICE PA-
5 TIENTS.—The individual is terminally ill
6 and is receiving benefits for hospice care
7 under this title.

8 “(iv) ELIGIBLE ON BASIS OF INSTITU-
9 TIONALIZATION.—The individual is an in-
10 patient in a hospital, nursing facility, in-
11 termediate care facility for the mentally re-
12 tarded, or other medical institution, and is
13 required, as a condition of receiving serv-
14 ices in such institution under the State
15 plan, to spend for costs of medical care all
16 but a minimal amount of the individual’s
17 income required for personal needs.

18 “(v) MEDICALLY FRAIL AND SPECIAL
19 MEDICAL NEEDS INDIVIDUALS.—The indi-
20 vidual is medically frail or otherwise an in-
21 dividual with special medical needs (as
22 identified in accordance with regulations of
23 the Secretary).

24 “(vi) BENEFICIARIES QUALIFYING
25 FOR LONG-TERM CARE SERVICES.—The in-

dividual qualifies based on medical condition for medical assistance for long-term care services described in section 1917(c)(1)(C).

“(C) FULL-BENEFIT ELIGIBLE INDIVIDUALS.—

“(i) IN GENERAL.—For purposes of this paragraph, subject to clause (ii), the term ‘full-benefit eligible individual’ means for a State for a month an individual who is determined eligible by the State for medical assistance for all services defined in section 1905(a) which are covered under the State plan under this title for such month under section 1902(a)(10)(A) or under any other category of eligibility for medical assistance for all such services under this title, as determined by the Secretary.

“(ii) EXCLUSION OF MEDICALLY NEEDY AND SPEND-DOWN POPULATIONS.—Such term shall not include an individual determined to be eligible by the State for medical assistance under section 1902(a)(10)(C) or by reason of section

1 1902(f) or otherwise eligible based on a re-
2 duction of income based on costs incurred
3 for medical or other remedial care.

4 “(b) BENCHMARK BENEFIT PACKAGES.—

5 “(1) IN GENERAL.—For purposes of subsection
6 (a)(1), each of the following coverage shall be con-
7 sidered to be benchmark coverage:

8 “(A) FEHBP-EQUIVALENT HEALTH IN-
9 SURANCE COVERAGE.—The standard Blue
10 Cross/Blue Shield preferred provider option
11 service benefit plan, described in and offered
12 under section 8903(1) of title 5, United States
13 Code.

14 “(B) STATE EMPLOYEE COVERAGE.—A
15 health benefits coverage plan that is offered and
16 generally available to State employees in the
17 State involved.

18 “(C) COVERAGE OFFERED THROUGH
19 HMO.—The health insurance coverage plan
20 that—

21 “(i) is offered by a health mainte-
22 nance organization (as defined in section
23 2791(b)(3) of the Public Health Service
24 Act), and

1 “(ii) has the largest insured commer-
 2 cial, non-medicaid enrollment of covered
 3 lives of such coverage plans offered by
 4 such a health maintenance organization in
 5 the State involved.

6 “(2) BENCHMARK-EQUIVALENT COVERAGE.—
 7 For purposes of subsection (a)(1), coverage that
 8 meets the following requirement shall be considered
 9 to be benchmark-equivalent coverage:

10 “(A) INCLUSION OF BASIC SERVICES.—
 11 The coverage includes benefits for items and
 12 services within each of the following categories
 13 of basic services:

14 “(i) Inpatient and outpatient hospital
 15 services.

16 “(ii) Physicians’ surgical and medical
 17 services.

18 “(iii) Laboratory and x-ray services.

19 “(iv) Well-baby and well-child care,
 20 including age-appropriate immunizations.

21 “(v) Other appropriate preventive
 22 services, as designated by the Secretary.

23 “(B) AGGREGATE ACTUARIAL VALUE
 24 EQUIVALENT TO BENCHMARK PACKAGE.—The
 25 coverage has an aggregate actuarial value that

1 is at least actuarially equivalent to one of the
2 benchmark benefit packages described in para-
3 graph (1).

4 “(C) SUBSTANTIAL ACTUARIAL VALUE FOR
5 ADDITIONAL SERVICES INCLUDED IN BENCH-
6 MARK PACKAGE.—With respect to each of the
7 following categories of additional services for
8 which coverage is provided under the bench-
9 mark benefit package used under subparagraph
10 (B), the coverage has an actuarial value that is
11 equal to at least 75 percent of the actuarial
12 value of the coverage of that category of serv-
13 ices in such package:

14 “(i) Coverage of prescription drugs.

15 “(ii) Mental health services.

16 “(iii) Vision services.

17 “(iv) Hearing services.

18 “(3) DETERMINATION OF ACTUARIAL VALUE.—

19 The actuarial value of coverage of benchmark benefit
20 packages shall be set forth in an actuarial opinion
21 in an actuarial report that has been prepared—

22 “(A) by an individual who is a member of
23 the American Academy of Actuaries;

24 “(B) using generally accepted actuarial
25 principles and methodologies;

1 “(C) using a standardized set of utilization
2 and price factors;

3 “(D) using a standardized population that
4 is representative of the population involved;

5 “(E) applying the same principles and fac-
6 tors in comparing the value of different cov-
7 erage (or categories of services);

8 “(F) without taking into account any dif-
9 ferences in coverage based on the method of de-
10 livery or means of cost control or utilization
11 used; and

12 “(G) taking into account the ability of a
13 State to reduce benefits by taking into account
14 the increase in actuarial value of benefits cov-
15 erage offered under this title that results from
16 the limitations on cost sharing under such cov-
17 erage.

18 The actuary preparing the opinion shall select and
19 specify in the memorandum the standardized set and
20 population to be used under subparagraphs (C) and
21 (D).

22 “(4) COVERAGE OF RURAL HEALTH CLINIC AND
23 FQHC SERVICES.—Notwithstanding the previous pro-
24 visions of this section, a State may not provide for
25 medical assistance through enrollment of an indi-

1 vidual with benchmark coverage or benchmark equiv-
2 alent coverage under this section unless—

3 “(A) the individual has access, through
4 such coverage or otherwise, to services de-
5 scribed in subparagraphs (B) and (C) of section
6 1905(a)(2); and

7 “(B) payment for such services is made in
8 accordance with the requirements of section
9 1902(bb).”.

10 **SEC. 3125. STATE OPTION TO ESTABLISH NON-EMERGENCY**
11 **MEDICAL TRANSPORTATION PROGRAM.**

12 (a) IN GENERAL.—Section 1902(a) of the Social Se-
13 curity Act (42 U.S.C. 1396a(a)) is amended—

14 (1) in paragraph (66), by striking “and” at the
15 end;

16 (2) in paragraph (67) by striking the period at
17 the end and inserting “; and”; and

18 (3) by inserting after paragraph (67) the fol-
19 lowing:

20 “(68) at the option of the State and notwith-
21 standing paragraph (10)(B) or (23), provide for the
22 establishment of a non-emergency medical transpor-
23 tation brokerage program in order to more cost-ef-
24 fectively provide transportation for individuals eligi-
25 ble for medical assistance under the State plan who

1 need access to medical care or services and have no
2 other means of transportation which—

3 “(A) may include a wheelchair van, taxi,
4 stretcher car, bus passes and tickets, secured
5 transportation, and such other transportation
6 as the Secretary determines appropriate; and

7 “(B) may be conducted under contract
8 with a broker who—

9 “(i) is selected through a competitive
10 bidding process based on the State’s eval-
11 uation of the broker’s experience, perform-
12 ance, references, resources, qualifications,
13 and costs;

14 “(ii) has oversight procedures to mon-
15 itor beneficiary access and complaints and
16 ensure that transport personnel are li-
17 censed, qualified, competent, and cour-
18 teous;

19 “(iii) is subject to regular auditing
20 and oversight by the State in order to en-
21 sure the quality of the transportation serv-
22 ices provided and the adequacy of bene-
23 ficiary access to medical care and services;
24 and

1 “(iv) complies with such requirements
2 related to prohibitions on referrals and
3 conflict of interest as the Secretary shall
4 establish (based on the prohibitions on
5 physician referrals under section 1877 and
6 such other prohibitions and requirements
7 as the Secretary determines to be appro-
8 priate).”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 subsection (a) take effect on the date of the enactment
11 of this Act.

12 (c) IG REPORT ON UTILIZATION.—Not later than
13 January 1, 2007, the Inspector General of the Depart-
14 ment of Health and Human Services shall submit to Con-
15 gress a report that examines the non-emergency medical
16 transportation brokerage programs implemented under
17 section 1902(a)(68) of the Social Security Act, as inserted
18 by subsection (a). The report shall include findings re-
19 garding conflicts of interest and improper utilization of
20 transportation services under such programs, as well as
21 recommendations for improvements in such programs.

22 **SEC. 3126. EXEMPTING WOMEN COVERED UNDER BREAST**
23 **OR CERVICAL CANCER PROGRAM.**

24 Notwithstanding any other provision of law, none of
25 provisions of the previous sections of this chapter, or

1 amendments made by such sections, shall apply to women
 2 who are receiving medical assistance by virtue of the appli-
 3 cation of sections 1902(a)(10)(A)(ii)(XVIII) and 1902(aa)
 4 of the Social Security Act (42 U.S.C.
 5 1396a(a)(10)(A)(ii)(XVIII), 1396a(aa)).

6 **CHAPTER 4—EXPANDED ACCESS TO** 7 **CERTAIN BENEFITS**

8 **SEC. 3131. EXPANDED ACCESS TO HOME AND COMMUNITY-** 9 **BASED SERVICES FOR THE ELDERLY AND** 10 **DISABLED.**

11 (a) IN GENERAL.—Section 1905(a) of the Social Se-
 12 curity Act (42 U.S.C. 1396d(a)) is amended—

13 (1) in paragraph (27), by striking “and” at the
 14 end;

15 (2) by redesignating paragraph (28) as para-
 16 graph (29); and

17 (3) by inserting after paragraph (27) the fol-
 18 lowing new paragraph:

19 “(28) subject to section 1902(cc), home and
 20 community-based services (within the scope of serv-
 21 ices described in paragraph (4)(B) of section
 22 1915(c) for which the Secretary has the authority to
 23 approve a waiver and not including room and board)
 24 provided pursuant to a written plan of care for indi-
 25 viduals—

1 “(A) who are 65 years of age or older, who
2 are disabled (as defined under the State plan),
3 who are persons with developmental disabilities
4 or mental retardation or persons with related
5 conditions, or who are within a subgroup there-
6 of under the State plan;

7 “(B) with respect to whom there has been
8 a determination, in the manner described in
9 paragraph (1) of such section, that but for the
10 provision of such services the individuals would
11 require the level of care provided in a hospital,
12 a nursing facility, or an intermediate care facil-
13 ity for the mentally retarded the cost of which
14 could be reimbursed under the State plan; and

15 “(C) who qualify for medical assistance
16 under the eligibility standards in effect in the
17 State (which may include standards in effect
18 under an approved waiver) as of the date of the
19 enactment of this paragraph; and”.

20 (b) CONDITIONS.—Section 1902 of such Act (42
21 U.S.C. 1396a) is amended by adding at the end the fol-
22 lowing new subsection:

23 “(cc) PROVISION OF HOME AND COMMUNITY-BASED
24 SERVICES UNDER STATE PLAN.—

1 “(1) CONDITIONS.—A State may provide home
2 and community-based services under section
3 1905(a)(28), other than through a waiver or dem-
4 onstration project under section 1915 or 1115, only
5 if the following conditions are met:

6 “(A) EXPIRATION OF PREVIOUS WAIVER.—
7 Any State waiver or demonstration project
8 under either such section with respect to serv-
9 ices for individuals described in such section
10 has expired.

11 “(B) INFORMATION.—The State must
12 monitor and report to the Secretary, in a form
13 and manner specified by the Secretary and on
14 a quarterly basis, enrollment and expenditures
15 for provision of such services under such sec-
16 tion.

17 “(2) OPTIONS.—Notwithstanding any other
18 provision of this title, in a State’s provision of serv-
19 ices under section 1905(a)(28)—

20 “(A) a State is not required to comply with
21 the requirements of section 1902(a)(1) (relating
22 to statewideness), section 1902(a)(10)(B) (re-
23 lating to comparability), and section
24 1902(a)(10)(C)(i)(III) (relating to income and
25 resource rules applicable in the community);

1 “(B) a State may limit the number of indi-
2 viduals who are eligible for such services and
3 may establish waiting lists for the receipt of
4 such services; and

5 “(C) a State may limit the amount, dura-
6 tion, and scope of such services.

7 Nothing in this section shall be construed as apply-
8 ing the previous sentence to any items or services
9 other than home and community-based services pro-
10 vided under section 1905(a)(28).

11 “(3) USE OF ELECTRONIC DATA.—The State
12 shall permit health care providers to comply with
13 documentation and data requirements imposed with
14 respect to home and community-based services
15 through the maintenance of data in electronic form
16 rather than in paper form.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to home and community-based
19 services furnished on or after October 1, 2006.

20 **SEC. 3132. OPTIONAL CHOICE OF SELF-DIRECTED PER-**
21 **SONAL ASSISTANCE SERVICES (CASH AND**
22 **COUNSELING).**

23 (a) EXEMPTION FROM CERTAIN REQUIREMENTS.—
24 Section 1915 of the Social Security Act (42 U.S.C. 1396n)

1 is amended by adding at the end the following new sub-
2 section:

3 “(i)(1) A State may provide, as ‘medical assistance’,
4 payment for part or all of the cost of self-directed personal
5 assistance services (other than room and board) under the
6 plan which are provided pursuant to a written plan of care
7 to individuals with respect to whom there has been a de-
8 termination that, but for the provision of such services,
9 the individuals would require and receive personal care
10 services under the plan, or home and community-based
11 services provided pursuant to a waiver under subsection
12 (c). Self-directed personal assistance services may not be
13 provided under this subsection to individuals who reside
14 in a home or property that is owned, operated, or con-
15 trolled by a provider of services, not related by blood or
16 marriage.

17 “(2) The Secretary shall not grant approval for a
18 State self-directed personal assistance services program
19 under this section unless the State provides assurances
20 satisfactory to the Secretary of the following:

21 “(A) Necessary safeguards have been taken to
22 protect the health and welfare of individuals pro-
23 vided services under the program, and to assure fi-
24 nancial accountability for funds expended with re-
25 spect to such services.

1 “(B) The State will provide, with respect to in-
2 dividuals who—

3 “(i) are entitled to medical assistance for
4 personal care services under the plan, or receive
5 home and community-based services under a
6 waiver granted under subsection (c);

7 “(ii) may require self-directed personal as-
8 sistance services; and

9 “(iii) may be eligible for self-directed per-
10 sonal assistance services,
11 an evaluation of the need for personal care under
12 the plan, or personal services under a waiver granted
13 under subsection (c).

14 “(C) Such individuals who are determined to be
15 likely to require personal care under the plan, or
16 home and community-based services under a waiver
17 granted under subsection (c) are informed of the
18 feasible alternatives, if available under the State’s
19 self-directed personal assistance services program, at
20 the choice of such individuals, to the provision of
21 personal care services under the plan, or personal
22 assistance services under a waiver granted under
23 subsection (c).

24 “(D) The State will provide for a support sys-
25 tem that ensures participants in the self-directed

1 personal assistance services program are appro-
2 priately assessed and counseled prior to enrollment
3 and are able to manage their budgets. Additional
4 counseling and management support may be pro-
5 vided at the request of the participant.

6 “(E) The State will provide to the Secretary an
7 annual report on the number of individuals served
8 and total expenditures on their behalf in the aggre-
9 gate. The State shall also provide an evaluation of
10 overall impact on the health and welfare of partici-
11 pating individuals compared to non-participants
12 every three years.

13 “(3) A State may provide self-directed personal as-
14 sistance services under the State plan without regard to
15 the requirements of section 1902(a)(1) and may limit the
16 population eligible to receive these services and limit the
17 number of persons served without regard to section
18 1902(a)(10)(B).

19 “(4)(A) For purposes of this subsection, the term
20 ‘self-directed personal assistance services’ means personal
21 care and related services, or home and community-based
22 services otherwise available under the plan under this title
23 or subsection (c), that are provided to an eligible partici-
24 pant under a self-directed personal assistance services pro-
25 gram under this section, under which individuals, within

1 an approved self-directed services plan and budget, pur-
2 chase personal assistance and related services, and per-
3 mits participants to hire, fire, supervise, and manage the
4 individuals providing such services.

5 “(B) At the election of the State—

6 “(i) a participant may choose to use any indi-
7 vidual capable of providing the assigned tasks in-
8 cluding legally liable relatives as paid providers of
9 the services; and

10 “(ii) the individual may use the individual’s
11 budget to acquire items that increase independence
12 or substitute (such as a microwave oven or an acces-
13 sibility ramp) for human assistance, to the extent
14 that expenditures would otherwise be made for the
15 human assistance.

16 “(5) For purpose of this section, the term ‘approved
17 self-directed services plan and budget’ means, with respect
18 to a participant, the establishment of a plan and budget
19 for the provision of self-directed personal assistance serv-
20 ices, consistent with the following requirements:

21 “(A) SELF-DIRECTION.—The participant (or in
22 the case of a participant who is a minor child, the
23 participant’s parent or guardian, or in the case of an
24 incapacitated adult, another individual recognized by
25 State law to act on behalf of the participant) exer-

1 cises choice and control over the budget, planning,
2 and purchase of self-directed personal assistance
3 services, including the amount, duration, scope, pro-
4 vider, and location of service provision.

5 “(B) ASSESSMENT OF NEEDS.—There is an as-
6 sessment of the needs, strengths, and preferences of
7 the participants for such services.

8 “(C) SERVICE PLAN.—A plan for such services
9 (and supports for such services) for the participant
10 has been developed and approved by the State based
11 on such assessment through a person-centered proc-
12 ess that—

13 “(i) builds upon the participant’s capacity
14 to engage in activities that promote community
15 life and that respects the participant’s pref-
16 erences, choices, and abilities; and

17 “(ii) involves families, friends, and profes-
18 sionals in the planning or delivery of services or
19 supports as desired or required by the partici-
20 pant.

21 “(D) SERVICE BUDGET.—A budget for such
22 services and supports for the participant has been
23 developed and approved by the State based on such
24 assessment and plan and on a methodology that uses
25 valid, reliable cost data, is open to public inspection,

1 and includes a calculation of the expected cost of
2 such services if those services were not self-directed.
3 The budget may not restrict access to other medi-
4 cally necessary care and services furnished under the
5 plan and approved by the State but not included in
6 the budget.

7 “(E) APPLICATION OF QUALITY ASSURANCE
8 AND RISK MANAGEMENT.—There are appropriate
9 quality assurance and risk management techniques
10 used in establishing and implementing such plan and
11 budget that recognize the roles and responsibilities
12 in obtaining services in a self-directed manner and
13 assure the appropriateness of such plan and budget
14 based upon the participant’s resources and capabili-
15 ties.

16 “(6) A State may employ a financial management en-
17 tity to make payments to providers, track costs, and make
18 reports under the program. Payment for the activities of
19 the financial management entity shall be at the adminis-
20 trative rate established in section 1903(a).”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall apply to services furnished on or after
23 January 1, 2006.

1 **SEC. 3133. EXPANSION OF STATE LONG-TERM CARE PART-**
2 **NERSHIP PROGRAM.**

3 (a) IN GENERAL.—Section 1917(b)(1)(C) of the So-
4 cial Security Act (42 U.S.C. 1396p(b)(1)(C)) is amend-
5 ed—

6 (1) in clause (ii), by inserting “or which has a
7 State plan amendment that provides for a qualified
8 State long-term care insurance partnership (as de-
9 fined in clause (iii))” after “1993,”; and

10 (2) by adding at the end the following new
11 clauses:

12 “(iii) For purposes of this paragraph, the term
13 ‘qualified State long-term care insurance partner-
14 ship’ means an approved State plan amendment
15 under this title that provides for the disregard of
16 any assets or resources in an amount equal to the
17 insurance benefit payments that are made to or on
18 behalf of an individual who is a beneficiary under a
19 long-term care insurance policy (including a certifi-
20 cate issued under a group insurance contract), if the
21 following requirements are met:

22 “(I) The policy covers an insured who was
23 a resident of such State when coverage first be-
24 came effective under the policy.

25 “(II) The policy is a qualified long-term
26 care insurance policy (as defined in section

1 7702B(b) of the Internal Revenue Code of
2 1986) issued on or after the first day of the
3 first calendar quarter in which the plan amend-
4 ment was submitted to the Secretary.

5 “(III) If the policy does not provide some
6 level of inflation protection, the insured was of-
7 fered, before the policy was sold, a long-term
8 care insurance policy that provides some level of
9 inflation protection.

10 “(IV) The State Medicaid agency under
11 section 1902(a)(5) provides information and
12 technical assistance to the State insurance de-
13 partment on the insurance department’s role of
14 assuring that any individual who sells a long-
15 term care insurance policy under the partner-
16 ship receives training or demonstrates evidence
17 of an understanding of such policies and how
18 they relate to other public and private coverage
19 of long-term care.

20 “(V) The issuer of the policy provides reg-
21 ular reports to the Secretary that include, in ac-
22 cordance with regulations of the Secretary (pro-
23 mulgated after consultation with the States),
24 notification regarding when all benefits provided
25 under the policy have been paid and the amount

1 of such benefits paid, when the policy otherwise
2 terminates, and such other information as the
3 Secretary determines may be appropriate to the
4 administration of such partnerships.

5 “(VI) The State does not impose any re-
6 quirement affecting the terms or benefits of
7 such a policy unless the State imposes such re-
8 quirement on long-term care insurance policies
9 without regard to whether the policy is covered
10 under the partnership or is offered in connec-
11 tion with such a partnership.

12 In the case of a long-term care insurance policy
13 which is exchanged for another such policy, sub-
14 clause (I) shall be applied based on the coverage of
15 the first such policy that was exchanged.

16 “(iv) The Secretary—

17 “(I) as appropriate, shall provide copies of
18 the reports described in clause (iii)(V) to the
19 State involved; and

20 “(II) shall promote the education of con-
21 sumers regarding qualified State long-term care
22 insurance partnerships.

23 “(v) The Secretary, in consultation with other
24 appropriate Federal agencies, issuers of long-term
25 care insurance, the National Association of Insur-

1 ance Commissioners, and State insurance commis-
2 sioners, shall develop recommendations for Congress
3 to authorize and fund a uniform minimum data set
4 to be reported electronically by all issuers of long-
5 term care insurance policies under qualified State
6 long-term care insurance partnerships to a secure,
7 centralized electronic query and report-generating
8 mechanism that the State, the Secretary, and other
9 Federal agencies can access.”.

10 (b) CONSTRUCTION.—Nothing in the amendments
11 made by subsection (a) shall be construed as affecting the
12 treatment of long-term care insurance policies that will be,
13 are, or were provided under a State plan amendment de-
14 scribed in section 1917(b)(1)(C)(ii) of the Social Security
15 Act that was approved as of May 14, 1993.

16 (c) EFFECTIVE DATE.—A State plan amendment
17 that provides for a qualified State long-term care insur-
18 ance partnership under the amendments made by sub-
19 section (a) may provide that such amendment is effective
20 for long-term care insurance policies issued on or after a
21 date, specified in the amendment, that is not earlier than
22 the first day of the first calendar quarter in which the
23 plan amendment was submitted to the Secretary of Health
24 and Human Services.

1 (d) STANDARDS FOR RECIPROCAL RECOGNITION
 2 AMONG PARTNERSHIP STATES.—In order to permit port-
 3 ability in long-term care insurance policies purchased
 4 under State long-term care insurance partnerships, the
 5 Secretary of Health and Human Services may develop, in
 6 consultation with the States and the National Association
 7 of Insurance Commissioners, uniform standards for recip-
 8 rocal recognition of such policies among States with quali-
 9 fied State long-term care insurance partnerships.

10 **SEC. 3134. HEALTH OPPORTUNITY ACCOUNTS.**

11 Title XIX of the Social Security Act, as amended by
 12 section 3124, is amended—

13 (1) by redesignating section 1937 as section
 14 1938; and

15 (2) by inserting after section 1936 the following
 16 new section:

17 “HEALTH OPPORTUNITY ACCOUNTS

18 “SEC. 1937. (a) AUTHORITY.—

19 “(1) IN GENERAL.—Notwithstanding any other
 20 provision of this title, the Secretary shall establish a
 21 demonstration program under which States may pro-
 22 vide under their State plans under this title (includ-
 23 ing such a plan operating under a statewide waiver
 24 under section 1115) in accordance with this section
 25 for the provision of alternative benefits consistent
 26 with subsection (c) for eligible population groups in

1 one or more geographic areas of the State specified
2 by the State. An amendment under the previous sen-
3 tence is referred to in this section as a ‘State dem-
4 onstration program’.

5 “(2) INITIAL DEMONSTRATION.—The dem-
6 onstration program under this section shall begin on
7 January 1, 2006. During the first 5 years of such
8 program, the Secretary shall not approve more than
9 10 State demonstration programs, with each State
10 demonstration program covering one or more geo-
11 graphic areas specified by the State. After such 5-
12 year period—

13 “(A) unless the Secretary finds, taking
14 into account cost-effectiveness, quality of care,
15 and other criteria that the Secretary specifies,
16 that a State demonstration program previously
17 implemented has been unsuccessful, such a
18 demonstration program may be extended or
19 made permanent in the State; and

20 “(B) unless the Secretary finds, taking
21 into account cost-effectiveness, quality of care,
22 and other criteria that the Secretary specifies,
23 that all State demonstration programs pre-
24 viously implemented were unsuccessful, other

1 States may implement State demonstration pro-
2 grams.

3 “(3) APPROVAL.—The Secretary shall not ap-
4 prove a State demonstration program under para-
5 graph (1) unless the program includes the following:

6 “(A) Creating patient awareness of the
7 high cost of medical care.

8 “(B) Providing incentives to patients to
9 seek preventive care services.

10 “(C) Reducing inappropriate use of health
11 care services.

12 “(D) Enabling patients to take responsi-
13 bility for health outcomes.

14 “(E) Providing enrollment counselors and
15 ongoing education activities.

16 “(F) Providing transactions involving
17 health opportunity accounts to be conducted
18 electronically and without cash.

19 “(G) Providing access to negotiated pro-
20 vider payment rates consistent with this section.

21 Nothing in this section shall be construed as pre-
22 venting a State demonstration program from pro-
23 viding incentives for patients obtaining appropriate
24 preventive care (as defined for purposes of section
25 223(c)(2)(C) of the Internal Revenue Code of 1986),

1 such as additional account contributions for an indi-
2 vidual demonstrating healthy prevention practices.

3 “(4) NO REQUIREMENT FOR
4 STATEWIDENESS.—Nothing in this section or any
5 other provision of law shall be construed to require
6 that a State must provide for the implementation of
7 a State demonstration program on a Statewide
8 basis.

9 “(5) REPORTS.—The Secretary shall periodi-
10 cally submit to Congress reports regarding the suc-
11 cess of State demonstration programs.

12 “(b) ELIGIBLE POPULATION GROUPS.—

13 “(1) IN GENERAL.—A State demonstration pro-
14 gram under this section shall specify the eligible
15 population groups consistent with paragraphs (2)
16 and (3).

17 “(2) ELIGIBILITY LIMITATIONS DURING INITIAL
18 DEMONSTRATION PERIOD.—During the initial 5
19 years of the demonstration program under this sec-
20 tion, a State demonstration program shall not apply
21 to any of the following individuals:

22 “(A) Individuals who are 65 years of age
23 or older.

24 “(B) Individuals who are disabled, regard-
25 less of whether or not their eligibility for med-

1 ical assistance under this title is based on such
2 disability.

3 “(C) Individuals who are eligible for med-
4 ical assistance under this title only because they
5 are (or were within the previous 60 days) preg-
6 nant.

7 “(D) Individuals who have been eligible for
8 medical assistance for a continuous period of
9 less than 3 months.

10 “(3) ADDITIONAL LIMITATIONS.—A State dem-
11 onstration program shall not apply to any individual
12 within a category of individuals described in section
13 1936(a)(2)(B).

14 “(4) LIMITATIONS.—

15 “(A) STATE OPTION.—This subsection
16 shall not be construed as preventing a State
17 from further limiting eligibility.

18 “(B) ON ENROLLEES IN MEDICAID MAN-
19 AGED CARE ORGANIZATIONS.—Insofar as the
20 State provides for eligibility of individuals who
21 are enrolled in medicaid managed care organi-
22 zations, such individuals may participate in the
23 State demonstration program only if the State
24 provides assurances satisfactory to the Sec-

1 retary that the following conditions are met
2 with respect to any such organization:

3 “(i) In no case may the number of
4 such individuals enrolled in the organiza-
5 tion who participate in the program exceed
6 5 percent of the total number of individ-
7 uals enrolled in such organization.

8 “(ii) The proportion of enrollees in
9 the organization who so participate is not
10 significantly disproportionate to the pro-
11 portion of such enrollees in other such or-
12 ganizations who participate.

13 “(iii) The State has provided for an
14 appropriate adjustment in the per capita
15 payments to the organization to account
16 for such participation, taking into account
17 differences in the likely use of health serv-
18 ices between enrollees who so participate
19 and enrollees who do not so participate.

20 “(5) VOLUNTARY PARTICIPATION.—An eligible
21 individual shall be enrolled in a State demonstration
22 program only if the individual voluntarily enrolls.
23 Except in such hardship cases as the Secretary shall
24 specify, such an enrollment shall be effective for a
25 period of 12 months, but may be extended for addi-

1 tional periods of 12 months each with the consent of
 2 the individual.

3 “(c) ALTERNATIVE BENEFITS.—

4 “(1) IN GENERAL.—The alternative benefits
 5 provided under this section shall consist, consistent
 6 with this subsection, of at least—

7 “(A) coverage for medical expenses in a
 8 year for items and services for which benefits
 9 are otherwise provided under this title after an
 10 annual deductible described in paragraph (2)
 11 has been met; and

12 “(B) contribution into a health opportunity
 13 account.

14 Nothing in subparagraph (A) shall be construed as
 15 preventing a State from providing for coverage of
 16 preventive care (referred to in subsection (a)(3))
 17 within the alternative benefits without regard to the
 18 annual deductible.

19 “(2) ANNUAL DEDUCTIBLE.—The amount of
 20 the annual deductible described in paragraph (1)(A)
 21 shall be at least 100 percent, but no more than 110
 22 percent, of the annualized amount of contributions
 23 to the health opportunity account under subsection
 24 (d)(2)(A)(i), determined without regard to any limi-
 25 tation described in subsection (d)(2)(C)(i)(II).

1 “(3) ACCESS TO NEGOTIATED PROVIDER PAY-
2 MENT RATES.—

3 “(A) FEE-FOR-SERVICE ENROLLEES.—In
4 the case of an individual who is participating in
5 a State demonstration program and who is not
6 enrolled with a medicaid managed care organi-
7 zation, the State shall provide that the indi-
8 vidual may obtain demonstration program med-
9 icaid services from—

10 “(i) any participating provider under
11 this title at the same payment rates that
12 would be applicable to such services if the
13 deductible described in paragraph (1)(A)
14 was not applicable; or

15 “(ii) any provider at payment rates
16 that do not exceed 125 percent of the pay-
17 ment rate that would be applicable to such
18 services furnished by a participating pro-
19 vider under this title if the deductible de-
20 scribed in paragraph (1)(A) was not appli-
21 cable.

22 “(B) TREATMENT UNDER MEDICAID MAN-
23 AGED CARE PLANS.—In the case of an indi-
24 vidual who is participating in a State dem-
25 onstration program and is enrolled with a med-

1 icaid managed care organization, the State shall
2 enter into an arrangement with the organiza-
3 tion under which the individual may obtain
4 demonstration program medicaid services from
5 any provider under such organization at pay-
6 ment rates that do not exceed the payment rate
7 that would be applicable to such services if the
8 deductible described in paragraph (1)(A) was
9 not applicable.

10 “(C) COMPUTATION.—The payment rates
11 described in subparagraphs (A) and (B) shall
12 be computed without regard to any cost sharing
13 that would be otherwise applicable under sec-
14 tions 1916 and 1916A.

15 “(D) DEFINITIONS.—For purposes of this
16 paragraph:

17 “(i) The term ‘demonstration program
18 medicaid services’ means, with respect to
19 an individual participating in a State dem-
20 onstration program, services for which the
21 individual would be provided medical as-
22 sistance under this title but for the appli-
23 cation of the deductible described in para-
24 graph (1)(A).

1 “(ii) The term ‘participating provider’
2 means—

3 “(I) with respect to an individual
4 described in subparagraph (A), a
5 health care provider that has entered
6 into a participation agreement with
7 the State for the provision of services
8 to individuals entitled to benefits
9 under the State plan; or

10 “(II) with respect to an indi-
11 vidual described in subparagraph (B)
12 who is enrolled in a medicaid man-
13 aged care organization, a health care
14 provider that has entered into an ar-
15 rangement for the provision of serv-
16 ices to enrollees of the organization
17 under this title.

18 “(4) NO EFFECT ON SUBSEQUENT BENEFITS.—
19 Except as provided under paragraphs (1) and (2),
20 alternative benefits for an eligible individual shall
21 consist of the benefits otherwise provided to the indi-
22 vidual, including cost sharing relating to such bene-
23 fits.

24 “(5) OVERRIDING COST SHARING AND COM-
25 PARABILITY REQUIREMENTS FOR ALTERNATIVE

1 BENEFITS.—The provisions of this title relating to
2 cost sharing for benefits (including sections 1916
3 and 1916A) shall not apply with respect to benefits
4 to which the annual deductible under paragraph
5 (1)(A) applies. The provisions of section
6 1902(a)(10)(B) (relating to comparability) shall not
7 apply with respect to the provision of alternative
8 benefits (as described in this subsection).

9 “(6) TREATMENT AS MEDICAL ASSISTANCE.—
10 Subject to subparagraphs (D) and (E) of subsection
11 (d)(2), payments for alternative benefits under this
12 section (including contributions into a health oppor-
13 tunity account) shall be treated as medical assist-
14 ance for purposes of section 1903(a).

15 “(7) USE OF TIERED DEDUCTIBLE AND COST
16 SHARING.—

17 “(A) IN GENERAL.—A State—

18 “(i) may vary the amount of the an-
19 nual deductible applied under paragraph
20 (1)(A) based on the income of the family
21 involved so long as it does not favor fami-
22 lies with higher income over those with
23 lower income; and

24 “(ii) may vary the amount of the max-
25 imum out-of-pocket cost sharing (as de-

1 fined in subparagraph (B)) based on the
2 income of the family involved so long as it
3 does not favor families with higher income
4 over those with lower income.

5 “(B) MAXIMUM OUT-OF-POCKET COST
6 SHARING.—For purposes of subparagraph
7 (A)(ii), the term ‘maximum out-of-pocket cost
8 sharing’ means, for an individual or family, the
9 amount by which the annual deductible level ap-
10 plied under paragraph (1)(A) to the individual
11 or family exceeds the balance in the health op-
12 portunity account for the individual or family.

13 “(8) CONTRIBUTIONS BY EMPLOYERS.—Noth-
14 ing in this section shall be construed as preventing
15 an employer from providing health benefits coverage
16 consisting of the coverage described in paragraph
17 (1)(A) to individuals who are provided alternative
18 benefits under this section.

19 “(d) HEALTH OPPORTUNITY ACCOUNT.—

20 “(1) IN GENERAL.—For purposes of this sec-
21 tion, the term ‘health opportunity account’ means an
22 account that meets the requirements of this sub-
23 section.

24 “(2) CONTRIBUTIONS.—

1 “(A) IN GENERAL.—No contribution may
2 be made into a health opportunity account ex-
3 cept—

4 “(i) contributions by the State under
5 this title; and

6 “(ii) contributions by other persons
7 and entities, such as charitable organiza-
8 tions.

9 “(B) STATE CONTRIBUTION.—A State
10 shall specify the contribution amount that shall
11 be deposited under subparagraph (A)(i) into a
12 health opportunity account.

13 “(C) LIMITATION ON ANNUAL STATE CON-
14 TRIBUTION PROVIDED AND PERMITTING IMPO-
15 SITION OF MAXIMUM ACCOUNT BALANCE.—

16 “(i) IN GENERAL.—A State—

17 “(I) may impose limitations on
18 the maximum contributions that may
19 be deposited under subparagraph
20 (A)(i) into a health opportunity ac-
21 count in a year;

22 “(II) may limit contributions into
23 such an account once the balance in
24 the account reaches a level specified
25 by the State; and

1 “(III) subject to clauses (ii) and
2 (iii) and subparagraph (D)(i), may
3 not provide contributions described in
4 subparagraph (A)(i) to a health op-
5 portunity account on behalf of an in-
6 dividual or family to the extent the
7 amount of such contributions (includ-
8 ing both State and Federal shares)
9 exceeds, on an annual basis, \$2,500
10 for each individual (or family mem-
11 ber) who is an adult and \$1,000 for
12 each individual (or family member)
13 who is a child.

14 “(ii) INDEXING OF DOLLAR LIMITA-
15 TIONS.—For each year after 2006, the dol-
16 lar amounts specified in clause (i)(III)
17 shall be annually increased by the Sec-
18 retary by a percentage that reflects the an-
19 nual percentage increase in the medical
20 care component of the consumer price
21 index for all urban consumers.

22 “(iii) BUDGET NEUTRAL ADJUST-
23 MENT.—A State may provide for dollar
24 limitations in excess of those specified in
25 clause (i)(III) (as increased under clause

1 (ii) for specified individuals if the State
2 provides assurances satisfactory to the Sec-
3 retary that contributions otherwise made
4 to other individuals will be reduced in a
5 manner so as to provide for aggregate con-
6 tributions that do not exceed the aggregate
7 contributions that would otherwise be per-
8 mitted under this subparagraph.

9 “(D) LIMITATIONS ON FEDERAL MATCH-
10 ING.—

11 “(i) STATE CONTRIBUTION.—A State
12 may contribute under subparagraph (A)(i)
13 amounts to a health opportunity account in
14 excess of the limitations provided under
15 subparagraph (C)(i)(III), but no Federal
16 financial participation shall be provided
17 under section 1903(a) with respect to con-
18 tributions in excess of such limitations.

19 “(ii) NO FFP FOR PRIVATE CONTRIBU-
20 TIONS.—No Federal financial participation
21 shall be provided under section 1903(a)
22 with respect to any contributions described
23 in subparagraph (A)(ii) to a health oppor-
24 tunity account.

1 “(E) APPLICATION OF DIFFERENT MATCH-
2 ING RATES.—The Secretary shall provide a
3 method under which, for expenditures made
4 from a health opportunity account for medical
5 care for which the Federal matching rate under
6 section 1903(a) exceeds the Federal medical as-
7 sistance percentage, a State may obtain pay-
8 ment under such section at such higher match-
9 ing rate for such expenditures.

10 “(3) USE.—

11 “(A) GENERAL USES.—

12 “(i) IN GENERAL.—Subject to the
13 succeeding provisions of this paragraph,
14 amounts in a health opportunity account
15 may be used for payment of such health
16 care expenditures as the State specifies.

17 “(ii) GENERAL LIMITATION.—In no
18 case shall such account be used for pay-
19 ment for health care expenditures that are
20 not payment of medical care (as defined by
21 section 213(d) of the Internal Revenue
22 Code of 1986).

23 “(iii) STATE RESTRICTIONS.—In ap-
24 plying clause (i), a State may restrict pay-
25 ment for—

1 “(I) providers of items and serv-
2 ices to providers that are licensed or
3 otherwise authorized under State law
4 to provide the item or service and may
5 deny payment for such a provider on
6 the basis that the provider has been
7 found, whether with respect to this
8 title or any other health benefit pro-
9 gram, to have failed to meet quality
10 standards or to have committed one
11 or more acts of fraud or abuse; and

12 “(II) items and services insofar
13 as the State finds they are not medi-
14 cally appropriate or necessary.

15 “(iv) ELECTRONIC WITHDRAWALS.—
16 The State demonstration program shall
17 provide for a method whereby withdrawals
18 may be made from the account for such
19 purposes using an electronic system and
20 shall not permit withdrawals from the ac-
21 count in cash.

22 “(B) MAINTENANCE OF HEALTH OPPOR-
23 TUNITY ACCOUNT AFTER BECOMING INELI-
24 GIBLE FOR PUBLIC BENEFIT.—

1 “(i) IN GENERAL.—Notwithstanding
2 any other provision of law, if an account
3 holder of a health opportunity account be-
4 comes ineligible for benefits under this title
5 because of an increase in income or as-
6 sets—

7 “(I) no additional contribution
8 shall be made into the account under
9 paragraph (2)(A)(i);

10 “(II) subject to clause (iii), the
11 balance in the account shall be re-
12 duced by 25 percent; and

13 “(III) subject to the succeeding
14 provisions of this subparagraph, the
15 account shall remain available to the
16 account holder for withdrawals under
17 the same terms and conditions as if
18 the account holder remained eligible
19 for such benefits.

20 “(ii) SPECIAL RULES.—Withdrawals
21 under this subparagraph from an ac-
22 count—

23 “(I) shall be available for the
24 purchase of health insurance coverage;
25 and

1 “(II) may, subject to clause (iv),
2 be made available (at the option of
3 the State) for such additional expendi-
4 tures (such as job training and tuition
5 expenses) specified by the State (and
6 approved by the Secretary) as the
7 State may specify.

8 “(iii) EXCEPTION FROM 25 PERCENT
9 SAVINGS TO GOVERNMENT FOR PRIVATE
10 CONTRIBUTIONS.—Clause (i)(II) shall not
11 apply to the portion of the account that is
12 attributable to contributions described in
13 paragraph (2)(A)(ii). For purposes of ac-
14 counting for such contributions, with-
15 drawals from a health opportunity account
16 shall first be attributed to contributions
17 described in paragraph (2)(A)(i).

18 “(iv) CONDITION FOR NON-HEALTH
19 WITHDRAWALS.—No withdrawal may be
20 made from an account under clause (ii)(II)
21 unless the accountholder has participated
22 in the program under this section for at
23 least 1 year.

24 “(v) NO REQUIREMENT FOR CONTINU-
25 ATION OF COVERAGE.—An account holder

1 of a health opportunity account, after be-
2 coming ineligible for medical assistance
3 under this title, is not required to purchase
4 high-deductible or other insurance as a
5 condition of maintaining or using the ac-
6 count.

7 “(4) ADMINISTRATION.—A State may coordi-
8 nate administration of health opportunity accounts
9 through the use of a third party administrator and
10 reasonable expenditures for the use of such adminis-
11 trator shall be reimbursable to the State in the same
12 manner as other administrative expenditures under
13 section 1903(a)(7).

14 “(5) TREATMENT.—Amounts in, or contributed
15 to, a health opportunity account shall not be counted
16 as income or assets for purposes of determining eli-
17 gibility for benefits under this title.

18 “(6) UNAUTHORIZED WITHDRAWALS.—A State
19 may establish procedures—

20 “(A) to penalize or remove an individual
21 from the health opportunity account based on
22 nonqualified withdrawals by the individual from
23 such an account; and

24 “(B) to recoup costs that derive from such
25 nonqualified withdrawals.”.

1 **CHAPTER 5—OTHER PROVISIONS**

2 **SEC. 3141. INCREASE IN MEDICAID PAYMENTS TO INSULAR**
3 **AREAS.**

4 Section 1108(g) of the Social Security Act (42 U.S.C.
5 1308(g)) is amended—

6 (1) in paragraph (2), by inserting “and subject
7 to paragraph (3)” after “subsection (f)”; and

8 (2) by adding at the end the following new
9 paragraph:

10 “(3) FISCAL YEARS 2006 AND 2007 FOR CERTAIN
11 INSULAR AREAS.—The amounts otherwise deter-
12 mined under this subsection for Puerto Rico, the
13 Virgin Islands, Guam, the Northern Mariana Is-
14 lands, and American Samoa for fiscal year 2006 and
15 fiscal year 2007 shall be increased by the following
16 amounts:

17 “(A) For Puerto Rico, \$12,000,000 for fis-
18 cal year 2006 and \$12,000,000 for fiscal year
19 2007.

20 “(B) For the Virgin Islands, \$2,500,000
21 for fiscal year 2006 and \$5,000,000 for fiscal
22 year 2007.

23 “(C) For Guam, \$2,500,000 for fiscal year
24 2006 and \$5,000,000 for fiscal year 2007.

1 “(D) For the Northern Mariana Islands,
2 \$1,000,000 for fiscal year 2006 and \$2,000,000
3 for fiscal year 2007.

4 “(E) For American Samoa, \$2,000,000 for
5 fiscal year 2006 and \$4,000,000 for fiscal year
6 2007.

7 Such amounts shall not be taken into account in ap-
8 plying paragraph (2) for fiscal year 2007 but shall
9 be taken into account in applying such paragraph
10 for fiscal year 2008 and subsequent fiscal years.”.

11 **SEC. 3142. MANAGED CARE ORGANIZATION PROVIDER TAX**

12 **REFORM.**

13 (a) IN GENERAL.—Section 1903(w)(7)(A)(viii) of the
14 Social Security Act (42 U.S.C. 1396b(w)(7)(A)(viii)) is
15 amended to read as follows:

16 “(viii) Services of managed care organiza-
17 tions (including health maintenance organiza-
18 tions, preferred provider organizations, and
19 such other similar organizations as the Sec-
20 retary may specify by regulation).”.

21 (b) EFFECTIVE DATE.—

22 (1) IN GENERAL.—Subject to paragraph (2),
23 the amendment made by subsection (a) shall be ef-
24 fective as of the date of the enactment of this Act.

25 (2) GRANDFATHER.—

(A) IN GENERAL.—Subject to subparagraph (B), in the case of a State that has had approved as of the date of the enactment of this Act a provider tax on services described in section 1903(w)(7)(A)(viii) of the Social Security Act, as amended by subsection (a), such amendment shall be effective as of October 1, 2008.

(B) TRANSITION RULE FOR FISCAL YEAR 2009.—In the case of a State described in subparagraph (A), the amount of any reduction in payment under subsection (a)(1) of section 1903 of the Social Security Act (42 U.S.C. 1396b) that would otherwise be required under subsection (w) of such section for calendar quarters in fiscal year 2009 because of the amendment made by section (a) shall be reduced by one-half.

SEC. 3143. MEDICAID TRANSFORMATION GRANTS.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b), as amended by section 3123, is amended by adding at the end the following new subsection:

“(y) MEDICAID TRANSFORMATION PAYMENTS.—

“(1) IN GENERAL.—In addition to the payments provided under subsection (a), subject to

1 paragraph (4), the Secretary shall provide for pay-
2 ments to States for the adoption of innovative meth-
3 ods to improve the effectiveness and efficiency in
4 providing medical assistance under this title.

5 “(2) PERMISSIBLE USES OF FUNDS.—The fol-
6 lowing are examples of innovative methods for which
7 funds provided under this subsection may be used:

8 “(A) Methods for reducing patient error
9 rates through the implementation and use of
10 electronic health records, electronic clinical deci-
11 sion support tools, or e-prescribing programs.

12 “(B) Methods for improving rates of collec-
13 tion from estates of amounts owed under this
14 title.

15 “(C) Methods for reducing waste, fraud,
16 and abuse under the program under this title,
17 such as reducing improper payment rates as
18 measured by annual payment error rate meas-
19 urement (PERM) project rates.

20 “(D) Implementation of a medication risk
21 management program as part of a drug use re-
22 view program under section 1927(g).

23 “(3) APPLICATION; TERMS AND CONDITIONS.—

24 “(A) IN GENERAL.—No payments shall be
25 made to a State under this subsection unless

1 the State applies to the Secretary for such pay-
2 ments in a form, manner, and time specified by
3 the Secretary.

4 “(B) TERMS AND CONDITIONS.—Such pay-
5 ments are made under such terms and condi-
6 tions consistent with this subsection as the Sec-
7 retary prescribes.

8 “(C) ANNUAL REPORT.—Payment to a
9 State under this subsection is conditioned on
10 the State submitting to the Secretary an annual
11 report on the programs supported by such pay-
12 ment. Such report shall include information
13 on—

14 “(A) the specific uses of such payment;

15 “(B) an assessment of quality improve-
16 ments and clinical outcomes under such pro-
17 grams; and

18 “(C) estimates of cost savings resulting
19 from such programs.

20 “(4) FUNDING.—

21 “(A) LIMITATION ON FUNDS.—The total
22 amount of payments under this subsection shall
23 be equal to, and shall not exceed—

24 “(i) \$50,000,000 for fiscal year 2007;

25 and

1 “(ii) \$50,000,000 for fiscal year 2008.

2 This subsection constitutes budget authority in
3 advance of appropriations Acts and represents
4 the obligation of the Secretary to provide for
5 the payment of amounts provided under this
6 subsection.

7 “(B) ALLOCATION OF FUNDS.—The Sec-
8 retary shall specify a method for allocating the
9 funds made available under this subsection
10 among States. Such method shall provide pref-
11 erence for States that design programs that
12 target health providers that treat significant
13 numbers of medicaid beneficiaries.

14 “(C) FORM AND MANNER OF PAYMENT.—
15 Payment to a State under this subsection shall
16 be made in the same manner as other payments
17 under section 1903(a). There is no requirement
18 for State matching funds to receive payments
19 under this subsection.

20 “(5) MEDICATION RISK MANAGEMENT PRO-
21 GRAM.—

22 “(A) IN GENERAL.—For purposes of this
23 subsection, the term ‘medication risk manage-
24 ment program’ means a program for targeted
25 beneficiaries that ensures that covered out-

1 patient drugs are appropriately used to opti-
2 mize therapeutic outcomes through improved
3 medication use and to reduce the risk of ad-
4 verse events.

5 “(B) ELEMENTS.—Such program may in-
6 clude the following elements:

7 “(i) The use of established principles
8 and standards for drug utilization review
9 and best practices to analyze prescription
10 drug claims of targeted beneficiaries and
11 identify outlier physicians.

12 “(ii) On an ongoing basis provide
13 outlier physicians—

14 “(I) a comprehensive pharmacy
15 claims history for each targeted bene-
16 ficiary under their care;

17 “(II) information regarding the
18 frequency and cost of relapses and
19 hospitalizations of targeted bene-
20 ficiaries under the physician’s care;
21 and

22 “(III) applicable best practice
23 guidelines and empirical references.

24 “(iii) Monitor outlier physician’s pre-
25 scribing, such as failure to refill, dosage

1 strengths, and provide incentives and in-
 2 formation to encourage the adoption of
 3 best clinical practices.

4 “(C) TARGETED BENEFICIARIES.—For
 5 purposes of this paragraph, the term ‘targeted
 6 beneficiaries’ means medicaid eligible bene-
 7 ficiaries who are identified as having high pre-
 8 scription drug costs and medical costs, such as
 9 individuals with behavioral disorders or multiple
 10 chronic diseases who are taking multiple medi-
 11 cations.”.

12 **SEC. 3144. ENHANCING THIRD PARTY IDENTIFICATION AND**
 13 **PAYMENT.**

14 (a) CLARIFICATION OF THIRD PARTIES LEGALLY
 15 RESPONSIBLE FOR PAYMENT OF A CLAIM FOR A HEALTH
 16 CARE ITEM OR SERVICE.—Section 1902(a)(25) of the So-
 17 cial Security Act (42 U.S.C. 1396a(a)(25)) is amended—

18 (1) in subparagraph (A), in the matter pre-
 19 ceding clause (i)—

20 (A) by inserting “, including self-insured
 21 plans” after “health insurers”; and

22 (B) by striking “and health maintenance
 23 organizations” and inserting “health mainte-
 24 nance organizations, pharmacy benefit man-
 25 agers, or other parties that are, by statute, con-

tract, or agreement, legally responsible for payment of a claim for a health care item or service”; and

(2) in subparagraph (G)—

(A) by inserting “a self-insured plan,” after “1974,”; and

(B) by striking “and a health maintenance organization” and inserting “a health maintenance organization, a pharmacy benefit manager, or other party that is, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service”.

(b) REQUIREMENT FOR THIRD PARTIES TO PROVIDE THE STATE WITH COVERAGE ELIGIBILITY AND CLAIMS DATA.—Section 1902(a)(25) of such Act (42 U.S.C. 1396a(a)(25)) is amended—

(1) in subparagraph (G), by striking “and” at the end;

(2) in subparagraph (H), by adding “and” after the semicolon at the end; and

(3) by inserting after subparagraph (H), the following:

“(I) that the State shall provide assurances satisfactory to the Secretary that the

1 State has in effect laws requiring health insur-
2 ers, including self-insured plans, group health
3 plans (as defined in section 607(1) of the Em-
4 ployee Retirement Income Security Act of
5 1974), service benefit plans, health maintenance
6 organizations, pharmacy benefit managers, or
7 other parties that are, by statute, contract, or
8 agreement, legally responsible for payment of a
9 claim for a health care item or service, as a
10 condition of doing business in the State, to—

11 “(i) provide eligibility and claims pay-
12 ment data with respect to an individual
13 who is eligible for, or is provided, medical
14 assistance under the State plan, upon the
15 request of the State;

16 “(ii) accept the subrogation of the
17 State to any right of an individual or other
18 entity to payment from the party for an
19 item or service for which payment has been
20 made under the State plan;

21 “(iii) respond to any inquiry by the
22 State regarding a claim for payment for
23 any health care item or service submitted
24 not later than 3 years after the date of the

1 provision of such health care item or serv-
2 ice; and

3 “(iv) agree not to deny a claim sub-
4 mitted by the State solely on the basis of
5 the date of submission of the claim;”.

6 (c) EFFECTIVE DATE.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), the amendments made by this section
9 take effect on January 1, 2006.

10 (2) DELAYED EFFECTIVE DATE.—In the case
11 of a State plan under title XIX of the Social Secu-
12 rity Act which the Secretary determines requires
13 State legislation in order for the plan to meet the
14 additional requirements imposed by the amendments
15 made by this section, the State plan shall not be re-
16 garded as failing to comply with the requirements of
17 such Act solely on the basis of its failure to meet
18 these additional requirements before the first day of
19 the first calendar quarter beginning after the close
20 of the first regular session of the State legislature
21 that begins after the date of enactment of this Act.
22 For purposes of the previous sentence, in the case
23 of a State that has a 2-year legislative session, each
24 year of the session shall be considered to be a sepa-
25 rate regular session of the State legislature.

1 **SEC. 3145. IMPROVED ENFORCEMENT OF DOCUMENTATION**
2 **REQUIREMENTS.**

3 (a) IN GENERAL.—Section 1903 of the Social Secu-
4 rity Act (42 U.S.C. 1396b) is amended—

5 (1) in subsection (i), as amended by section 104
6 of Public Law 109–91—

7 (A) by striking the period at the end of
8 paragraph (21) and inserting “; or”; and

9 (B) by inserting after paragraph (21) the
10 following new paragraph:

11 “(22) with respect to amounts expended for
12 medical assistance for an individual who declares
13 under section 1137(d)(1)(A) to be a citizen or na-
14 tional of the United States for purposes of estab-
15 lishing eligibility for benefits under this title, unless
16 the requirement of subsection (z) is met.”; and

17 (2) by adding at the end, as amended by sec-
18 tions 3123 and 3143, the following new subsection:

19 “(z)(1) For purposes of subsection (i)(22), the re-
20 quirement of this subsection is, with respect to an indi-
21 vidual declaring to be a citizen or national of the United
22 States, that, subject to paragraph (2), there is presented
23 satisfactory documentary evidence of citizenship or nation-
24 ality (as defined in paragraph (3)) of the individual.

1 “(2) The requirement of paragraph (1) shall not
2 apply to an alien who is eligible for medical assistance
3 under this title—

4 “(A) and is entitled to or enrolled for benefits
5 under any part of title XVIII;

6 “(B) on the basis of receiving supplemental se-
7 curity income benefits under title XVI; or

8 “(C) on such other basis as the Secretary may
9 specify under which satisfactory documentary evi-
10 dence of citizenship or nationality had been pre-
11 viously presented.

12 “(3)(A) For purposes of this subsection, the term
13 ‘satisfactory documentary evidence of citizenship or na-
14 tionality’ means—

15 “(i) any document described in subparagraph
16 (B); or

17 “(ii) a document described in subparagraph (C)
18 and a document described in subparagraph (D).

19 “(B) The following are documents described in this
20 subparagraph:

21 “(i) A United State passport.

22 “(ii) Form N-550 or N-570 (Certificate of
23 Naturalization).

24 “(iii) Form N-560 or N-561 (Certificate of
25 United States Citizenship).

1 “(iv) Such other document as the Secretary
2 may specify, by regulation, that provides proof of
3 United States citizenship or nationality and that
4 provides a reliable means of documentation of per-
5 sonal identity.

6 “(C) The following are documents described in this
7 subparagraph:

8 “(i) A certificate of birth in the United States.

9 “(ii) Form FS-545 or Form DS-1350 (Certifi-
10 cation of Birth Abroad).

11 “(iii) Form I-97 (United States Citizen Identi-
12 fication Card).

13 “(iv) Form FS-240 (Report of Birth Abroad of
14 a Citizen of the United States).

15 “(v) Such other document (not described in
16 subparagraph (B)(iv)) as the Secretary may specify
17 that provides proof of United States citizenship or
18 nationality.

19 “(D) The following are documents described in this
20 subparagraph:

21 “(i) Any identity document described in section
22 274A(b)(1)(D) of the Immigration and Nationality
23 Act.

24 “(ii) Any other documentation of personal iden-
25 tity of such other type as the Secretary finds, by

1 regulation, provides a reliable means of identifica-
2 tion.

3 “(E) A reference in this paragraph to a form includes
4 a reference to any successor form.”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 subsection (a) shall apply to determinations of initial eligi-
7 bility for medical assistance made on or after July 1,
8 2006, and to redeterminations of eligibility made on or
9 after such date in the case of individuals for whom the
10 requirement of section 1903(z) of the Social Security Act,
11 as added by such amendments, was not previously met.

12 **SEC. 3146. REFORMS OF TARGETED CASE MANAGEMENT.**

13 (a) IN GENERAL.—Section 1915(g) of the Social Se-
14 curity Act (42 U.S.C. 1396n(g)) is amended by striking
15 paragraph (2) and inserting the following:

16 “(2) For purposes of this subsection:

17 “(A)(i) The term ‘case management services’
18 means services which will assist individuals eligible
19 under the plan in gaining access to needed medical,
20 social, educational, and other services.

21 “(ii) Such term includes the following:

22 “(I) Assessment of an eligible individual to
23 determine service needs, including activities
24 that focus on needs identification, to determine
25 the need for any medical, educational, social, or

1 other services. Such assessment activities in-
2 clude the following:

3 “(aa) Taking client history.

4 “(bb) Identifying the needs of the in-
5 dividual, and completing related docu-
6 mentation.

7 “(cc) Gathering information from
8 other sources such as family members,
9 medical providers, social workers, and edu-
10 cators, if necessary, to form a complete as-
11 sessment of the eligible individual.

12 “(II) Development of a specific care plan
13 based on the information collected through an
14 assessment, that specifies the goals and actions
15 to address the medical, social, educational, and
16 other services needed by the eligible individual,
17 including activities such as ensuring the active
18 participation of the eligible individual and work-
19 ing with the individual (or the individual’s au-
20 thorized health care decision maker) and others
21 to develop such goals and identify a course of
22 action to respond to the assessed needs of the
23 eligible individual.

24 “(III) Referral and related activities to
25 help an individual obtain needed services, in-

1 including activities that help link eligible individ-
2 uals with medical, social, educational providers
3 or other programs and services that are capable
4 of providing needed services, such as making re-
5 ferrals to providers for needed services and
6 scheduling appointments for the individual.

7 “(IV) Monitoring and follow-up activities,
8 including activities and contacts that are nec-
9 essary to ensure the care plan is effectively im-
10 plemented and adequately addressing the needs
11 of the eligible individual, and which may be
12 with the individual, family members, providers,
13 or other entities and conducted as frequently as
14 necessary to help determine such matters as—

15 “(aa) whether services are being fur-
16 nished in accordance with an individual’s
17 care plan;

18 “(bb) whether the services in the care
19 plan are adequate; and

20 “(cc) whether there are changes in the
21 needs or status of the eligible individual,
22 and if so, making necessary adjustments in
23 the care plan and service arrangements
24 with providers.

1 “(iii) Such term does not include the direct de-
2 livery of an underlying medical, educational, social,
3 or other service to which an eligible individual has
4 been referred, including, with respect to the direct
5 delivery of foster care services, services such as (but
6 not limited to) the following:

7 “(I) Research gathering and completion of
8 documentation required by the foster care pro-
9 gram.

10 “(II) Assessing adoption placements.

11 “(III) Recruiting or interviewing potential
12 foster care parents.

13 “(IV) Serving legal papers.

14 “(V) Home investigations.

15 “(VI) Providing transportation.

16 “(VII) Administering foster care subsidies.

17 “(VIII) Making placement arrangements.

18 “(B) The term ‘targeted case management serv-
19 ices’ means case management services that are fur-
20 nished without regard to the requirements of section
21 1902(a)(1) and section 1902(a)(10)(B) to specific
22 classes of individuals or to individuals who reside in
23 specified areas.

24 “(3) With respect to contacts with individuals who
25 are not eligible for medical assistance under the State plan

1 or, in the case of targeted case management services, indi-
2 viduals who are eligible for such assistance but are not
3 part of the target population specified in the State plan,
4 such contacts—

5 “(A) are considered an allowable case manage-
6 ment activity, when the purpose of the contact is di-
7 rectly related to the management of the eligible indi-
8 vidual’s care; and

9 “(B) are not considered an allowable case man-
10 agement activity if such contacts relate directly to
11 the identification and management of the noneligible
12 or nontargeted individual’s needs and care.

13 “(4)(A) In accordance with section 1902(a)(25), Fed-
14 eral financial participation only is available under this title
15 for case management services or targeted case manage-
16 ment services if there are no other third parties liable to
17 pay for such services, including as reimbursement under
18 a medical, social, educational, or other program.

19 “(B) A State shall allocate the costs of any part of
20 such services which are reimbursable under another feder-
21 ally funded program in accordance with OMB Circular A-
22 87 (or any related or successor guidance or regulations
23 regarding allocation of costs among federally funded pro-
24 grams) under an approved cost allocation program.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall take effect on January 1, 2006.

3 **SEC. 3147. EMERGENCY SERVICES FURNISHED BY NON-**
4 **CONTRACT PROVIDERS FOR MEDICAID MAN-**
5 **AGED CARE ENROLLEES.**

6 (a) IN GENERAL.—Section 1932(b)(2) of the Social
7 Security Act (42 U.S.C. 1396u–2(b)(2)) is amended by
8 adding at the end the following new subparagraph:

9 “(D) EMERGENCY SERVICES FURNISHED
10 BY NON-CONTRACT PROVIDERS.—Any provider
11 of emergency services that does not have in ef-
12 fect a contract with a medicaid managed care
13 entity that establishes payment amounts for
14 services furnished to a beneficiary enrolled in
15 the entity’s medicaid managed care plan must
16 accept as payment in full the amounts (less any
17 payments for indirect costs of medical education
18 and direct costs of graduate medical education)
19 that it could collect if the beneficiary received
20 medical assistance under this title other than
21 through enrollment in such an entity.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall take effect on January 1, 2007.

1 **SEC. 3148. ADJUSTMENT IN COMPUTATION OF MEDICAID**
2 **FMAP TO DISREGARD AN EXTRAORDINARY**
3 **EMPLOYER PENSION CONTRIBUTION.**

4 (a) IN GENERAL.—Only for purposes of computing
5 the Federal medical assistance percentage under section
6 1905(b) of the Social Security Act (42 U.S.C. 1396d(b))
7 for a State for a fiscal year (beginning with fiscal year
8 2006), any significantly disproportionate employer pension
9 contribution described in subsection (b) shall be dis-
10 regarded in computing the per capita income of such
11 State, but shall not be disregarded in computing the per
12 capita income for the continental United States (and Alas-
13 ka) and Hawaii.

14 (b) SIGNIFICANTLY DISPROPORTIONATE EMPLOYER
15 PENSION CONTRIBUTION.—For purposes of subsection
16 (a), a significantly disproportionate employer pension con-
17 tribution described in this subsection with respect to a
18 State for a fiscal year is an employer contribution towards
19 pensions that is allocated to such State for a period if the
20 aggregate amount so allocated exceeds 50 percent of the
21 total increase in personal income in that State for the pe-
22 riod involved.

Subtitle B—Katrina Health Care Relief

SEC. 3201. TARGETED MEDICAID RELIEF FOR STATES AFFECTED BY HURRICANE KATRINA.

(a) 100 PERCENT FEDERAL MATCHING PAYMENTS FOR MEDICAL ASSISTANCE PROVIDED IN KATRINA IMPACTED AREAS.—

(1) IN GENERAL.—Notwithstanding section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), for items and services furnished during the period that begins on August 28, 2005, and ends on May 15, 2006, the Federal matching rate for providing medical assistance for such items and services under a State Medicaid plan to any individual residing in a Katrina impacted parish or county (as defined in subsection (c)(1)) or to a Katrina Survivor (as defined in subsection (b)), and for costs directly attributable to all administrative activities that relate to the provision of such medical assistance, shall be 100 percent.

(2) APPLICATION TO CHILD HEALTH ASSISTANCE.—Notwithstanding section 2105(b) of the Social Security Act (42 U.S.C. 1397ee(b)), for items and services furnished during the period described in paragraph (1), the Federal matching rate for pro-

1 viding child health assistance for such items and
2 services under a State child health plan under title
3 XXI of such Act in a Katrina impacted parish or
4 county or to a Katrina Survivor, and for costs di-
5 rectly attributable to all administrative activities
6 that relate to the provision of such child health as-
7 sistance, shall be 100 percent.

8 (b) KATRINA SURVIVOR.—For purposes of subsection
9 (a), the term “Katrina Survivor” means an individual
10 who, on any day during the week preceding August 28,
11 2005, had a primary residence in a major disaster parish
12 or county (as defined in subsection (c)).

13 (c) DEFINITIONS.—For purposes of this section:

14 (1) KATRINA IMPACTED PARISH OR COUNTY.—
15 The term “Katrina impacted parish or county”
16 means any parish in the State of Louisiana, any
17 county in the State of Mississippi, and any major
18 disaster parish or county in the State of Alabama.

19 (2) MAJOR DISASTER PARISH OR COUNTY.—A
20 major disaster parish or county is a parish of the
21 State of Louisiana or a county of the State of Mis-
22 sissippi or Alabama for which a major disaster has
23 been declared in accordance with section 401 of the
24 Robert T. Stafford Disaster Relief and Emergency
25 Assistance Act (42 U.S.C. 5170) as a result of Hur-

1 ricane Katrina and which the President has deter-
2 mined, as of September 14, 2005, warrants indi-
3 vidual assistance from the Federal Government
4 under such Act.

5 **SEC. 3202. STATE HIGH RISK HEALTH INSURANCE POOL**
6 **FUNDING.**

7 There are hereby authorized and appropriated
8 \$90,000,000 for fiscal year 2006 for grants under sub-
9 section (b)(1) of section 2745 of the Public Health Service
10 Act (42 U.S.C. 300gg-45). The amount so appropriated
11 shall be treated as if it had been appropriated under sub-
12 section (c)(2) of such section.

13 **SEC. 3203. RECOMPUTATION OF HPSA, MUA, AND MUP DES-**
14 **IGNATIONS WITHIN HURRICANE KATRINA AF-**
15 **FECTED AREAS.**

16 (a) IN GENERAL.—For purposes of the Public Health
17 Service Act (42 U.S.C. 201 et seq.), the Secretary of
18 Health and Human Services shall conduct a review of all
19 Hurricane Katrina disaster areas and, as appropriate tak-
20 ing into account the lack of availability of health care pro-
21 viders and services due to Hurricane Katrina—

22 (1) shall designate such areas as health profes-
23 sional shortage areas or medically underserved
24 areas; and

1 (2) shall designate one of more populations of
2 each such area as a medically underserved popu-
3 lation.

4 (b) HURRICANE KATRINA DISASTER AREA DE-
5 FINED.—For purposes of this section, the term “Hurri-
6 cane Katrina disaster area” means an area for which a
7 major disaster has been declared in accordance with sec-
8 tion 401 of the Robert T. Stafford Disaster Relief and
9 Emergency Assistance Act (42 U.S.C. 5170) as a result
10 of Hurricane Katrina and which the President has deter-
11 mined, before September 14, 2005, warrants individual
12 and public assistance from the Federal Government under
13 such Act.

14 **SEC. 3204. WAIVER OF CERTAIN REQUIREMENTS APPLICA-**
15 **BLE TO THE PROVISION OF HEALTH CARE IN**
16 **AREAS IMPACTED BY HURRICANE KATRINA.**

17 (a) ELIGIBLE AREA.—

18 (1) DEFINITION.—In this section, the term “el-
19 igible area” means an area identified by the Sec-
20 retary of Health and Human Services pursuant to
21 paragraph (2).

22 (2) IDENTIFICATION.—Not later than 30 days
23 after the date of the enactment of this Act, the Sec-
24 retary of Health and Human Services shall identify
25 areas that—

1 (A) have been directly impacted by Hurri-
2 cane Katrina; or

3 (B) are located in a State which has ab-
4 sorbed a significant number of Hurricane
5 Katrina evacuees.

6 (b) HEALTH CENTERS.—For the purpose of deter-
7 mining whether an entity located in an eligible area quali-
8 fies as a health center under section 330 of the Public
9 Health Service Act (42 U.S.C. 254b):

10 (1) BOARD COMPOSITION.—

11 (A) WAIVER.—The Secretary of Health
12 and Human Services shall waive any require-
13 ment that a majority of the governing board of
14 the entity be consumers of the entity's health
15 care services.

16 (B) RULE OF CONSTRUCTION.—This para-
17 graph shall not be construed as requiring the
18 Secretary of Health and Human Services to
19 waive a requirement that the governing board
20 of the entity include representation of the con-
21 sumers of the entity's health care services.

22 (2) MEDICALLY UNDERSERVED POPULATION.—

23 (A) DETERMINATION.—At the request of
24 the entity, the Secretary of Health and Human
25 Services shall determine whether, taking into

1 consideration any change in population associ-
2 ated with Hurricane Katrina, the entity serves
3 a medically underserved population (as that
4 term is defined in section 330(b)(3) of the Pub-
5 lic Health Service Act (42 U.S.C. 254b(b)(3))).

6 (B) DEADLINE.—The Secretary of Health
7 and Human Services shall make a determina-
8 tion under subparagraph (A) not later than 60
9 days after the date on which the Secretary re-
10 ceives the request for the determination.

11 (C) RESTRICTION.—The Secretary of
12 Health and Human Services shall not make any
13 determination under this paragraph on whether
14 a population has ceased to qualify as a medi-
15 cally underserved population under section 330
16 of the Public Health Service Act (42 U.S.C.
17 254b).

18 (3) REQUIRED PRIMARY HEALTH SERVICES.—
19 The Secretary of Health and Human Services shall
20 waive any requirement for the entity to provide pri-
21 mary health services described in clause (iii), (iv), or
22 (v) of section 330(b)(1) of the Public Health Service
23 Act (42 U.S.C. 254b(b)(1)).

24 (c) NATIONAL HEALTH SERVICE CORPS.—Notwith-
25 standing the provisions of subpart II of part D of title

1 III of the Public Health Service Act (42 U.S.C. 254d et
2 seq.) requiring that members of the National Health Serv-
3 ice Corps be assigned to health professional shortage
4 areas, the Secretary of Health and Human Services may
5 assign members of the National Health Service Corps to
6 any eligible area.

7 (d) TERMINATION OF AUTHORITY.—The authority
8 vested by this section in the Secretary of Health and
9 Human Services and the Secretary of Homeland Security
10 shall terminate on the date that is 2 years after enactment
11 of this Act. The Secretary of Health and Human Services
12 may not grant any waiver under subsection (b)(1) or
13 (b)(3) and may not make any assignment of personnel
14 under subsection (c), and the Secretary of Homeland Se-
15 curity may not allow any agreement under subsection (d),
16 for a period extending beyond such date.

17 **SEC. 3205. FMAP HOLD HARMLESS FOR KATRINA IMPACT.**

18 Notwithstanding any other provision of law, for pur-
19 poses of titles XIX and XXI of the Social Security Act,
20 the Secretary of Health and Human Services in computing
21 the Federal medical assistance percentage under section
22 1905(b) of such (42 U.S.C. 1396d(b)) for any year after
23 2006 for a State that the Secretary determines has a sig-
24 nificant number of evacuees who were evacuated to, and
25 live in, the State as a result of Hurricane Katrina as of

1 October 1, 2005, the Secretary shall disregard such evac-
2 uees (and income attributable to such evacuees).

3 **Subtitle C—Katrina and Rita**
4 **Energy Relief**

5 **SEC. 3301. HURRICANES KATRINA AND RITA ENERGY RE-**
6 **LIEF.**

7 (a) FINDINGS.—The Congress finds the following:

8 (1) Hurricanes Katrina and Rita severely dis-
9 rupted crude oil and natural gas production in the
10 Gulf of Mexico. The Energy Information Adminis-
11 tration estimates that as a result of these two hurri-
12 canes, the amount of shut in crude oil production
13 nearly doubled to almost 1,600,000 barrels per day,
14 and the amount of natural gas production shut in
15 also doubled to about 8,000,000,000 cubic feet per
16 day. The hurricanes also initially shut down most of
17 the crude oil refinery capacity in the Gulf of Mexico
18 region. These disruptions led to significantly higher
19 prices for crude oil, refined oil products, and natural
20 gas.

21 (2) These production and supply disruptions
22 are expected to lead to significantly higher heating
23 costs for consumers this winter. The Energy Infor-
24 mation Administration projects an increase in resi-
25 dential natural gas heating expenditures of 32 per-

1 cent to 61 percent over last winter, with the Midwest
2 seeing the largest increase. Winter heating oil ex-
3 penditures are projected to increase by 30 percent to
4 41 percent over last winter, again with the Midwest
5 seeing the largest increase. Propane expenditures for
6 home heating are projected to increase 20 percent to
7 36 percent over last winter, with the Midwest seeing
8 the largest projected increase. Expenditures for
9 home heating using electricity are expected to in-
10 crease by 2 percent to 9 percent over last winter,
11 with the South seeing the largest increase. Overall,
12 average home heating expenditures this winter are
13 projected to increase about 33 percent, assuming a
14 normal winter. These significant increases in home
15 heating costs this winter will particularly harm low-
16 income consumers. The Low-Income Home Energy
17 Assistance Program is designed to assist these low
18 income consumers in this situation. Accordingly,
19 Congress seeks a one-time only supplement to the
20 Low-Income Home Energy Assistance Program fund
21 to assist low income consumers with the additional
22 home heating expenditures that they will face this
23 winter as a result of Hurricanes Katrina and Rita.

24 (b) RELIEF.—In addition to amounts otherwise made
25 available, there shall be directly available to the Secretary

1 of Health and Human Services for a 1-time only obligation
 2 and expenditure \$1,000,000,000 for fiscal year 2006 for
 3 allocation under section 2604(a) through (d) of the Low-
 4 Income Home Energy Assistance Act of 1981 (42 U.S.C.
 5 8623(a) through (d)), for the sole purpose of providing
 6 assistance to offset the anticipated higher energy costs
 7 caused by Hurricane Katrina and Hurricane Rita.

8 (c) SUNSET.—The provisions of this section shall ter-
 9minate, be null and void, and have no force and effect
 10 whatsoever after September 30, 2006. No monies provided
 11 for under this section shall be available after such date.

12 **Subtitle D—Digital Television** 13 **Transition**

14 **SEC. 3401. SHORT TITLE.**

15 This subtitle may be cited as the “Digital Television
 16 Transition Act of 2005”.

17 **SEC. 3402. FINDINGS.**

18 The Congress finds the following:

19 (1) A loophole in current law is stalling the dig-
 20 ital television (DTV) transition and preventing the
 21 return of spectrum for critical public safety and
 22 wireless broadband uses.

23 (A) In 1996, to facilitate the DTV transi-
 24 tion, Congress gave each full-power television
 25 broadcaster an extra channel of spectrum to

1 broadcast in digital format while continuing to
2 broadcast in analog format on its original chan-
3 nel. Each broadcaster was supposed to eventu-
4 ally return either the original or additional
5 channel and broadcast exclusively in digital for-
6 mat on the remaining channel.

7 (B) In 1997, Congress earmarked for pub-
8 lic safety use some of the spectrum the broad-
9 casters are supposed to return. Congress des-
10 ignated the rest of the spectrum to be auctioned
11 for advanced commercial applications, such as
12 wireless broadband services. Congress set De-
13 cember 31, 2006, as the deadline for broad-
14 casters to return the spectrum for public safety
15 and wireless use.

16 (C) A loophole, however, allows broad-
17 casters in a market to delay the return of the
18 spectrum until more than 85 percent of tele-
19 vision households in that market have at least
20 one television with access to digital broadcast
21 channels using a digital television receiver, a
22 digital-to-analog converter box, or cable or sat-
23 ellite service. Experts forecast it will take many
24 more years to meet the 85-percent test nation-
25 wide.

1 (2) Eliminating the 85-percent test and setting
2 a “hard deadline” will close the loophole, making
3 possible the nationwide clearing necessary to com-
4 plete the DTV transition and free the spectrum for
5 public safety use.

6 (A) Some police officers, firefighters, and
7 rescue personnel already have equipment to
8 communicate over the spectrum the broad-
9 casters are supposed to return, and are just
10 awaiting the turnover. Many more public safety
11 officials cannot purchase equipment or begin
12 planning without a date certain for the avail-
13 ability of the spectrum.

14 (B) Five years to the day before Sep-
15 tember 11, 2001, an advisory committee report
16 to the Federal Communications Commission
17 (FCC) noted that public safety officials des-
18 perately needed more spectrum to better com-
19 municate with each other in times of emer-
20 gency. The 9/11 Commission has specifically
21 recognized the importance of clearing for public
22 safety use the spectrum at issue here, especially
23 following the terrorist attacks on the Pentagon
24 and the World Trade Center. The spectrum is

1 also important for communications during nat-
2 ural disasters.

3 (3) The certainty of a nationwide hard deadline
4 will enable consumers, industry, and government to
5 take the necessary steps to make the transition as
6 smooth as possible.

7 (A) Under existing law, once a market
8 meets the 85-percent penetration test, the re-
9 maining 15 percent of households in the market
10 would lose access to broadcast programming
11 unless they obtain a digital television receiver,
12 a digital-to-analog converter box, or cable or
13 satellite service.

14 (B) Determining when the 85-percent test
15 in current law has been met in a particular
16 market would be extremely difficult for the
17 FCC to accomplish. Moreover, because no one
18 can predict precisely when any market will meet
19 the 85-percent test, and because different mar-
20 kets will meet the test at different times, con-
21 sumers, industry, and government cannot ade-
22 quately plan on a either a local or nationwide
23 basis.

24 (C) With a hard deadline, government, in-
25 dustry, and consumer groups can develop con-

crete plans for consumer education. Manufacturers can build large quantities of low-cost digital-to-analog converter boxes for consumers who wish to continue using their analog televisions. Clearing the spectrum on a unified, nationwide basis will also enable the government to maximize the revenue from the auction. Some of that revenue can be used to help make the converter boxes available.

(D) The deadline will have little impact on most television households. The vast majority of households already subscribe to cable or satellite services. Allowing cable and satellite operators to convert digital broadcasts into an analog-viewable format will enable their subscribers that wish to continue using analog televisions to do so.

(4) Setting a hard deadline will bring consumers and the economy the benefits of the DTV transition faster.

(A) DTV offers sharper and wider pictures, and CD-quality sound. Even consumers with analog televisions connected to a converter box or cable or satellite service will receive better service than they did before the transition.

1 (B) Once the transition is complete, broad-
2 casters can redirect the resources they currently
3 expend running both analog and digital stations
4 and focus on programming that capitalizes on
5 the advanced features of digital transmissions.
6 Manufacturers can also increase the production
7 of televisions and other consumer electronics
8 equipment that takes advantage of these fea-
9 tures, which will also drive down prices.

10 (C) The cleared spectrum can be used to
11 bring cutting-edge wireless services to public
12 safety officials and consumers. This spectrum
13 travels greater distances at lower costs, and
14 more easily penetrates buildings and foliage.
15 Consequently, it is ideal to bring mobile
16 broadband services not only to urban areas, but
17 to rural areas as well, which currently have very
18 few cost-effective broadband options.

19 (D) The increase in DTV programming,
20 services, and equipment, and the provision of
21 products and services that use the cleared spec-
22 trum, will improve America's global competitive-
23 ness and result in significant investment and
24 innovation, boosting our economy and fostering
25 new jobs.

1 **SEC. 3403. ANALOG SPECTRUM RECOVERY: HARD DEAD-**
2 **LINE.**

3 (a) AMENDMENTS.—Section 309(j)(14) of the Com-
4 munications Act of 1934 (47 U.S.C. 309(j)(14)) is amend-
5 ed—

6 (1) in subparagraph (A), by striking “December
7 31, 2006” and inserting “December 31, 2008”;

8 (2) by striking subparagraph (B);

9 (3) in subparagraph (C)(i)(I), by striking “or
10 (B)”;

11 (4) in subparagraph (D), by striking “subpara-
12 graph (C)(i)” and inserting “subparagraph (B)(i)”;
13 and

14 (5) by redesignating subparagraphs (C) and
15 (D) as subparagraphs (B) and (C), respectively.

16 (b) IMPLEMENTATION.—

17 (1) DTV ALLOTMENT TABLE OF IN-CORE
18 CHANNELS FOR FULL-POWER STATIONS.—The Fed-
19 eral Communications Commission shall—

20 (A) release by December 31, 2006, a re-
21 port and order in MB Docket No. 03–15 as-
22 signing all full-power broadcast television sta-
23 tions authorized in the digital television service
24 a channel between channels 2 and 36, inclusive,
25 or 38 and 51, inclusive (between frequencies 54
26 and 698 megahertz, inclusive);

1 (B) release by July 31, 2007, any recon-
2 sideration of such report and order; and

3 (C) not adopt any further changes between
4 July 31, 2007, and January 1, 2009, to the
5 channels assigned to full-power broadcast tele-
6 vision stations for the provision of digital tele-
7 vision service unless doing so is necessary for
8 reasons of public safety or necessary to prevent
9 a delay in the end of broadcasting by full-power
10 stations in the analog television service.

11 (2) STATUS REPORTS.—Beginning with a re-
12 port on January 31, 2006, and ending with a report
13 on July 31, 2007, the Commission shall submit re-
14 ports to the Committee on Energy and Commerce of
15 the House of Representatives and the Committee on
16 Commerce, Science, and Transportation of the Sen-
17 ate every six months on the status of international
18 coordination with Canada and Mexico of the digital
19 television service table of allotments.

20 (3) TERMINATIONS OF ANALOG LICENSES AND
21 BROADCASTING.—The Federal Communications
22 Commission shall take such actions as are necessary
23 to terminate all licenses for full-power television sta-
24 tions in the analog television service and to require

1 the cessation of broadcasting by full-power stations
 2 in the analog television service by January 1, 2009.

3 (4) **ADDITIONAL UNLICENSED SPECTRUM FOR**
 4 **WIRELESS BROADBAND.**—The Commission shall,
 5 within one year after the date of enactment of this
 6 Act, issue a final order in the matter of Unlicensed
 7 Operation in the TV Broadcast Bands (ET Docket
 8 No. 04–186).

9 (c) **TECHNICAL AMENDMENT.**—Paragraph (15) of
 10 section 309(j) of the Communications Act of 1934 (47
 11 U.S.C. 309(j)), as added by section 203(b) of the Com-
 12 mercial Spectrum Enhancement Act (P.L. 108–494; 118
 13 Stat. 3993), is redesignated as paragraph (16) of such
 14 section.

15 **SEC. 3404. AUCTION OF RECOVERED SPECTRUM.**

16 (a) **DEADLINE FOR AUCTION.**—Section
 17 309(j)(15)(C) of the Communications Act of 1934 (47
 18 U.S.C. 309(j)(15)(C)) is amended by adding at the end
 19 the following new clauses:

20 “(v) **ADDITIONAL DEADLINES FOR RE-**
 21 **COVERED ANALOG SPECTRUM.**—Notwith-
 22 standing subparagraph (B), the Commis-
 23 sion shall conduct the auction of the li-
 24 censes for recovered analog spectrum by
 25 commencing the bidding not later than

1 January 7, 2008, and shall deposit the
2 proceeds of such auction in accordance
3 with paragraph (8)(E)(i) not later than
4 June 30, 2008.

5 “(vi) RECOVERED ANALOG SPEC-
6 TRUM.—For purposes of clause (v), the
7 term ‘recovered analog spectrum’ means
8 the spectrum between channels 52 and 69,
9 inclusive (between frequencies 698 and 806
10 megahertz, inclusive) reclaimed from ana-
11 log television service broadcasting under
12 paragraph (14), other than—

13 “(I) the spectrum required by
14 section 337 to be made available for
15 public safety services; and

16 “(II) the spectrum auctioned
17 prior to the date of enactment of the
18 Digital Television Transition Act of
19 2005.”.

20 (b) EXTENSION OF AUCTION AUTHORITY.—Para-
21 graph (11) of section 309(j) of such Act is repealed.

22 (c) STUDY OF AUCTION AUTHORITY.—

23 (1) INQUIRY AND STUDY REQUIRED.—Within
24 120 days after the date of enactment of this Act, the

1 Federal Communications Commission shall initiate
2 an ongoing inquiry and study—

3 (A) to evaluate the participation of women,
4 minorities, and small businesses in the auction
5 process, including the percentage of winning
6 bidders that are women, minorities, and small
7 businesses; and

8 (B) to assess the efforts made by the Com-
9 mission to ensure that women, minorities, and
10 small businesses are able to successfully partici-
11 pate in the auction process.

12 (2) REPORT.—The Commission shall submit a
13 report to the Congress on the results of the inquiry
14 and study required by paragraph (1) at least bienni-
15 ally beginning not later than one year after the date
16 of enactment of this Act.

17 **SEC. 3405. DIGITAL TELEVISION CONVERSION FUND.**

18 (a) RESERVATION OF AUCTION PROCEEDS TO ASSIST
19 CONVERSION.—Section 309(j)(8) of the Communications
20 Act of 1934 (47 U.S.C. 309(j)(8)) is amended—

21 (1) in subparagraph (A), by striking “subpara-
22 graph (B) or subparagraph (D)” and inserting “sub-
23 paragraphs (B), (D), and (E)”;

1 (2) in subparagraph (C)(i), by inserting before
2 the semicolon at the end the following: “, except as
3 otherwise provided in subparagraph (E)(i)”; and

4 (3) by adding at the end the following new sub-
5 paragraph:

6 “(E) TRANSFER OF REVENUES FOR DIG-
7 ITAL TELEVISION CONVERSION.—

8 “(i) PROCEEDS FOR DTV CONVERSION
9 FUND.—Notwithstanding subparagraph
10 (A), of the proceeds (including deposits
11 and upfront payments from successful bid-
12 ders) from the use of a competitive bidding
13 system under this subsection with respect
14 to recovered analog spectrum—

15 “(I) \$990,000,000 shall be de-
16 posited in a separate fund in the
17 Treasury to be known as the ‘Digital
18 Television Conversion Fund’, and be
19 available exclusively to carry out sec-
20 tion 159 of the National Tele-
21 communications and Information Ad-
22 ministration Organization Act;

23 “(II) \$500,000,000 shall be de-
24 posited in a separate fund in the
25 Treasury to be known as the ‘Public

1 Safety Interoperable Communications
2 Fund’, and be available exclusively to
3 carry out section 160 of such Act;

4 “(III) \$30,000,000 shall be de-
5 posited in a separate fund in the
6 Treasury to be known as the ‘NYC 9/
7 11 Digital Transition Fund’, and be
8 available exclusively to carry out sec-
9 tion 161 of such Act;

10 “(IV) \$3,000,000 shall be depos-
11 ited in a separate fund in the Treas-
12 ury to be known as the ‘Low-Power
13 Digital-to-Analog Conversion Fund’,
14 and be available exclusively to carry
15 out section 162 of such Act; and

16 “(V) the remainder of such pro-
17 ceeds shall be deposited in the Treas-
18 ury in accordance with chapter 33 of
19 title 31, United States Code.

20 “(ii) RECOVERED ANALOG SPEC-
21 TRUM.—For purposes of clause (i), the
22 term ‘recovered analog spectrum’ has the
23 meaning provided in paragraph
24 (15)(C)(vi).”.

1 (b) CONVERTER BOX PROGRAM.—Part C of the Na-
2 tional Telecommunications and Information Administra-
3 tion Organization Act is amended by adding at the end
4 the following new section:

5 **“SEC. 159. DIGITAL-TO-ANALOG CONVERTER BOX PRO-**
6 **GRAM.**

7 “(a) CREATION OF PROGRAM.—The Assistant Sec-
8 retary—

9 “(1) shall use the funds available under sub-
10 section (d) of this section to implement and admin-
11 ister a program through which households in the
12 United States may obtain, upon request, up to two
13 coupons that can be applied toward the purchase of
14 digital-to-analog converter boxes, subject to the re-
15 strictions in this section and the regulations created
16 thereunder; and

17 “(2) may award one or more contracts (includ-
18 ing a contract with another Federal agency) for the
19 administration of some or all of the program.

20 “(b) PROGRAM SPECIFICATIONS.—

21 “(1) FORM OF COUPON REQUEST.—The regula-
22 tions under this section shall prescribe the contents
23 of the coupon request form and the information any
24 household seeking a coupon shall provide on the
25 form. The coupon request form shall be required to

1 include instructions for its use and also describe, at
2 a minimum, the requirements and limitations of the
3 program, the ways in which the form and the infor-
4 mation the household provides will be used, and to
5 whom the form and the information will be dis-
6 closed.

7 “(2) DISTRIBUTION OF COUPON REQUEST
8 FORMS.—

9 “(A) PAPER AND ELECTRONIC FORMS.—

10 The Assistant Secretary shall provide for the
11 distribution of paper coupon request forms at
12 Government buildings, including post offices.
13 The Assistant Secretary shall provide for the
14 availability to households of electronic coupon
15 request forms, and may permit such forms to
16 be submitted electronically.

17 “(B) ADDITIONAL DISTRIBUTION.—If the
18 Assistant Secretary determines that doing so
19 would make the program more successful and
20 easier for consumers to participate in, paper
21 and electronic coupon request forms shall also
22 be distributed by such private entities as the
23 Assistant Secretary shall specify (such as retail-
24 ers, manufacturers, broadcasters, religious or-
25 ganizations, and consumer groups) and shall be

1 distributed in the manner specified by the As-
2 sistant Secretary.

3 “(3) LIMITATIONS.—

4 “(A) TWO-PER-HOUSEHOLD MAXIMUM.—A
5 household may obtain coupons only by making
6 a request as required by the regulations under
7 this section. Any request must be made between
8 January 1, 2008, and January 31, 2009, inclu-
9 sive. The Assistant Secretary shall ensure that
10 each requesting household receives no more
11 than two coupons.

12 “(B) NO COMBINATIONS OF COUPONS.—
13 Two coupons may not be used in combination
14 toward the purchase of a single digital-to-ana-
15 log converter box.

16 “(C) DURATION.—All coupons shall expire
17 3 months after issuance.

18 “(4) DISTRIBUTION OF COUPONS.—

19 “(A) Coupons shall be distributed to re-
20 questing households by mail and each coupon
21 shall be issued in the name of a member of the
22 requesting household, and shall include a
23 unique identification number as well as any
24 other measures the Assistant Secretary deems

1 necessary to minimize fraud, counterfeiting, du-
2 plication, and other unauthorized use.

3 “(B) Included on or provided with each
4 coupon shall be, at a minimum, instructions for
5 the coupon’s use and a description of the cou-
6 pon’s limitations.

7 “(C) The Assistant Secretary shall expend
8 not more than \$160,000,000 on administrative
9 expenses and shall ensure that the sum of all
10 administrative expenses for the program and
11 the total maximum value of all the coupons re-
12 deemed, and issued but not expired, does not
13 exceed \$990,000,000.

14 “(D) The Assistant Secretary may expend
15 up to \$5,000,000 of the administrative expenses
16 on the public outreach program required by sec-
17 tion 330(d)(4) of the Communications Act of
18 1934 (47 U.S.C. 330(d)(4)). Such funds may
19 be used for grants to the Association of Public
20 Television Stations, in partnership with non-
21 commercial educational television broadcast sta-
22 tions (as defined section 397(6) of the Commu-
23 nications Act of 1934 (47 U.S.C. 397(6))) to
24 carry out such public outreach.

25 “(5) QUALIFYING PURCHASES.—

1 “(A) QUALIFYING BOX.—The regulations
2 shall specify methods for determining and iden-
3 tifying the converter boxes that meet the defini-
4 tion in subsection (g).

5 “(B) COUPON VALUE.—The value of each
6 coupon shall be \$40.

7 “(6) REDEMPTION OF COUPONS.—No coupon
8 shall be redeemed except upon submission of reason-
9 able proof that the individual redeeming the coupon
10 is the individual named on the coupon, and such ad-
11 ditional information as is required by the regulations
12 under this section. In the case of retail distribution
13 of digital-to-analog converter boxes over the Internet
14 or by telephone, submission of a valid credit card
15 number issued in the name of the household mem-
16 ber, the unique identification number on the coupon,
17 the address of the household, and such other infor-
18 mation as is required by the regulations under this
19 section shall be reasonable proof of identity, except
20 that the redemption of coupons over the Internet or
21 by telephone shall be prohibited if the Assistant Sec-
22 retary determines that such redemption would be
23 unreasonably susceptible to fraud or other abuse.

24 “(7) RETAILER CERTIFICATION.—

1 “(A) Any retailer desiring to qualify for
2 coupon reimbursement under this section shall,
3 in accordance with the regulations under this
4 section, be required to undergo a certification
5 process to qualify for participation in the pro-
6 gram.

7 “(B) As part of the certification process,
8 retailers shall be informed of the program’s de-
9 tails and their rights and obligations, including
10 their obligations to honor all valid coupons that
11 are tendered in the authorized manner, and to
12 keep a reasonable number of eligible converter
13 boxes in stock.

14 “(8) COUPON REIMBURSEMENT AND RETAILER
15 AUDITING.—

16 “(A) REIMBURSEMENT.—The regulations
17 under this section shall establish the process by
18 which retailers may seek and obtain reimburse-
19 ment for the coupons, and shall include the op-
20 tion for retailers to seek and obtain reimburse-
21 ment electronically.

22 “(B) AUDITS.—Such regulations shall es-
23 tablish procedures for the auditing of retailer
24 reimbursements.

1 “(9) APPEALS.—The regulations under this sec-
2 tion shall establish an appeals process for the review
3 and resolution of complaints—

4 “(A) by a household alleging that—

5 “(i) the household was improperly de-
6 nied a coupon;

7 “(ii) a valid coupon properly tendered
8 was not honored; or

9 “(iii) the household was otherwise
10 harmed by another violation of this section
11 or such regulations; or

12 “(B) by a retailer of digital-to-analog con-
13 verter boxes alleging that the retailer was im-
14 properly denied reimbursement for a valid cou-
15 pon properly tendered and accepted under this
16 section or such regulations.

17 All such complaints shall be resolved within 30 days
18 after receipt of the complaint.

19 “(10) ENFORCEMENT.—The regulations under
20 this section shall provide for the termination of eligi-
21 bility to participate in the program for retailers or
22 households that engage in fraud, misrepresentation,
23 or other misconduct in connection with the program,
24 or that otherwise violate this section or such regula-
25 tions.

1 “(11) PROGRESS REPORT.—Beginning with a
2 report on March 31, 2008, and ending with a report
3 on June 30, 2009, the Assistant Secretary shall sub-
4 mit reports to the Committee on Energy and Com-
5 merce of the House of Representatives and the Com-
6 mittee on Commerce, Science, and Transportation of
7 the Senate, every three months summarizing the
8 progress of coupon distribution and redemption, in-
9 cluding how many coupons are being distributed and
10 redeemed, and how quickly.

11 “(c) PRIVACY.—The program under this section shall
12 ensure that personally identifiable information collected in
13 connection with the program under this section is not used
14 or shared for any other purpose than as described in this
15 section, except as otherwise required or authorized by law.
16 For purposes of this subsection, the term ‘personally iden-
17 tifiable information’ shall have the same meaning as pro-
18 vided in section 338(i)(2).

19 “(d) AVAILABILITY OF FUNDS.—

20 “(1) IN GENERAL.—From the Digital Tele-
21 vision Conversion Fund established by section
22 309(j)(8)(E)(i)(I) of the Communications Act of
23 1934, there shall be available to carry out this sec-
24 tion such sums as may be necessary for fiscal years
25 2008 and 2009. Any sums that remain unexpended

1 in the Fund at the end of fiscal year 2009 shall re-
2 vert to and be deposited in the general fund of the
3 Treasury.

4 “(2) CREDIT.—The Assistant Secretary may
5 borrow from the Treasury such sums as may be nec-
6 essary not to exceed \$990,000,000 to implement and
7 administer the program in accordance with this sec-
8 tion. The Assistant Secretary shall reimburse the
9 Treasury, without interest, as funds are deposited
10 into the Digital Television Conversion Fund under
11 section 309(j)(8)(E) of such Act.

12 “(e) ENERGY STANDARDS REQUIRED.—

13 “(1) STANDARD.—The maximum energy con-
14 sumption for the passive standby mode of a digital-
15 to-analog converter box shall be no more than 9
16 watts.

17 “(2) ENFORCEMENT.—The Secretary of Energy
18 shall enforce the requirements of paragraph (1). Any
19 converter box that the Secretary of Energy deter-
20 mines is not in compliance with the requirements of
21 paragraph (1) shall not be eligible for purchase with
22 assistance made available under this section.

23 “(3) PREEMPTION.—No State or any political
24 subdivision thereof may establish or enforce any law,
25 rule, regulation, or other provision having the force

1 of law that regulates the energy output, usage, or
2 consumption standards for a digital-to-analog con-
3 verter box.

4 “(f) IMPLEMENTATION.—The Secretary of Commerce
5 shall promulgate, within 9 months after the date of enact-
6 ment of the Digital Television Transition Act of 2005,
7 such regulations as are necessary to carry out this section.

8 “(g) DEFINITION.—For purposes of this section:

9 “(1) DIGITAL-TO-ANALOG CONVERTER BOX.—
10 The term ‘digital-to-analog converter box’ means a
11 stand-alone device that does not contain features or
12 functions except those necessary to enable a con-
13 sumer to convert any channel broadcast in the dig-
14 ital television service into a format that the con-
15 sumer can display on television receivers designed to
16 receive and display signals only in the analog tele-
17 vision service.

18 “(2) HOUSEHOLD.—The term ‘household’
19 means the residents at a residential street or rural
20 route address, and shall not include a post office
21 box.

22 “(3) STANDBY PASSIVE MODE.—The term
23 ‘standby passive mode’ means a low power state the
24 digital-to-analog converter device enters while con-
25 nected to a power source which fulfills not the main

1 function but can be switched into another mode by
2 means of an internal or external signal.”.

3 **SEC. 3406. PUBLIC SAFETY INTEROPERABLE COMMUNICA-**
4 **TIONS FUND.**

5 Part C of the National Telecommunications and In-
6 formation Administration Organization Act is amended by
7 adding after section 159 (as added by section 3405(b) of
8 this Act) the following new section:

9 **“SEC. 160. PUBLIC SAFETY INTEROPERABLE COMMUNICA-**
10 **TIONS FUND.**

11 “(a) PROGRAM AUTHORIZED.—From the funds avail-
12 able under subsection (f), the Assistant Secretary shall
13 carry out a grant program to assist public safety agencies
14 in the acquisition of, deployment of, or training for the
15 use of interoperable communications systems that utilize,
16 or enable interoperability with communications systems
17 that can utilize, reallocated public safety spectrum for
18 radio communications.

19 “(b) TERMS AND CONDITIONS OF GRANTS.—In order
20 to obtain a grant under this section, a public safety agency
21 shall—

22 “(1) submit an application to the Assistant Sec-
23 retary at such time, in such form, and containing or
24 accompanied by such information and assurances as
25 the Assistant Secretary shall require;

1 “(2) agree that, if awarded a grant, the public
2 safety agency will submit annual reports to the As-
3 sistant Secretary for the duration of the grant
4 award period with respect to—

5 “(A) the expenditure of grant funds; and

6 “(B) progress toward acquiring and de-
7 ploying interoperable communications systems
8 funded by the grant;

9 “(3) agree to provide, from non-Federal
10 sources, not less than 20 percent of the costs of ac-
11 quiring and deploying the interoperable communica-
12 tions systems acquired and deployed with funds pro-
13 vided under this section; and

14 “(4) agree to remit to the Assistant Secretary
15 any grant funds that remain unexpended at the end
16 of the 3-year period of the grant.

17 “(c) DURATION OF GRANT; RECOVERY OF UNUSED
18 FUNDS.—Grants under this section shall be awarded in
19 the form of a single grant for a period of not more than
20 3 years. At the end of 3 years, any grant funds that re-
21 main unexpended shall be remitted by the grantee to the
22 Assistant Secretary, and, subject to subsection (f)(2), may
23 be awarded to other eligible grant recipients. At the end
24 of fiscal year 2010, any such reawarded grant funds that
25 remain unexpended shall be remitted by the grantee to the

1 Assistant Secretary and may not be reawarded to other
2 grantees.

3 “(d) OVERSIGHT OF EXPENDITURES.—The Assistant
4 Secretary shall submit to the Committee on Commerce,
5 Science, and Transportation of the Senate and the Com-
6 mittee on Energy and Commerce, not later than 6 months
7 after the first award of a grant under this section and
8 every 6 months thereafter until October 1, 2010, a re-
9 port—

10 “(1) identifying, on a State-by-State basis,
11 using the information submitted under subsection
12 (b)(2), the results of the program, including an iden-
13 tification, on a State-by-State basis, of—

14 “(A) the public safety agencies awarded a
15 grant;

16 “(B) the amount of the grant;

17 “(C) the specified use for the grant; and

18 “(D) how each such grant was spent; and

19 “(2) stating the cumulative total of the amount
20 of grants awarded, and the balance, if any, remain-
21 ing in the Public Safety Interoperable Communica-
22 tions Fund; and

23 “(3) in the final such report, stating the
24 amount in the Fund that reverted to the general
25 fund of the Treasury.

1 “(e) REGULATIONS.—The Secretary is authorized to
2 prescribe such regulations as are necessary to carry out
3 this section.

4 “(f) AVAILABILITY OF FUNDS.—

5 “(1) AVAILABILITY.—From the Public Safety
6 Interoperable Communications Fund established by
7 section 309(j)(8)(E)(i)(II) of the Communications
8 Act of 1934, there shall be available to carry out
9 this section such sums as may be necessary for fiscal
10 years 2008, 2009, and 2010.

11 “(2) REVERSION.—Any sums that remain unex-
12 pended in the Fund at the end of fiscal year 2010
13 shall revert to and be deposited in the general fund
14 of the Treasury.

15 “(g) DEFINITIONS.—For purposes of this section:

16 “(1) PUBLIC SAFETY AGENCY.—The term ‘pub-
17 lic safety agency’ means any State or local govern-
18 ment entity, or nongovernmental organization au-
19 thorized by such entity, whose sole or principal pur-
20 pose is to protect the safety of life, health, or prop-
21 erty.

22 “(2) INTEROPERABLE COMMUNICATIONS SYS-
23 TEMS.—The term ‘interoperable communications
24 systems’ means communications systems which en-
25 able public safety agencies to share information

1 amongst local, State, and Federal public safety
2 agencies in the same area via voice or data signals.

3 “(3) REALLOCATED PUBLIC SAFETY SPEC-
4 TRUM.—The term ‘reallocated public safety spec-
5 trum’ means the bands of spectrum located at 764
6 -776 megahertz and 794–806 megahertz, inclusive.”.

7 **SEC. 3407. NYC 9/11 DIGITAL TRANSITION FUND.**

8 Part C of the National Telecommunications and In-
9 formation Administration Organization Act is amended by
10 adding after section 160 (as added by section 3406 of this
11 Act) the following new section:

12 **“SEC. 161. NYC 9/11 DIGITAL TRANSITION FUND.**

13 “(a) FUNDS AVAILABLE.—From the NYC 9/11 Dig-
14 ital Transition Fund established by section
15 309(j)(8)(E)(i)(III) of the Communications Act of 1934,
16 there shall be available to carry out this section such sums
17 as may be necessary for fiscal years 2006 through 2008.
18 Any sums that remain unexpended in the Fund at the end
19 of fiscal year 2008 shall revert to and be deposited in the
20 general fund of the Treasury. The Assistant Secretary
21 may borrow from the Treasury such sums as may be nec-
22 essary not to exceed \$30,000,000 to implement and ad-
23 minister the program in accordance with this section. The
24 Assistant Secretary shall reimburse the Treasury, without

1 interest, as funds are deposited into the NYC 9/11 Digital
2 Transition Fund under section 309(j)(8)(E) of such Act.

3 “(b) USE OF FUNDS.—The sums available under
4 subsection (a) shall be made available by the Assistant
5 Secretary by grant to be used to reimburse the Metropoli-
6 tan Television Alliance for costs incurred in the design and
7 deployment of a temporary digital television broadcast sys-
8 tem to ensure that, until a permanent facility atop the
9 Freedom Tower is constructed, the members of the Metro-
10 politan Television Alliance can provide the New York City
11 area with an adequate digital television signal as deter-
12 mined by the Federal Communications Commission.

13 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
14 tion shall be construed to alter or otherwise affect the Fed-
15 eral Communications Commission’s authority with respect
16 to licensing and interference regulation.

17 “(d) DEFINITIONS.—For purposes of this section:

18 “(1) The term ‘Metropolitan Television Alli-
19 ance’ means the organization formed by New York
20 City television broadcast station licensees to locate
21 new shared facilities as a result of the attacks on
22 September 11, 2001 and the loss of use of shared
23 facilities that housed broadcast equipment.

24 “(2) The term ‘New York City area’ means the
25 five counties comprising New York City and counties

1 of northern New Jersey in immediate proximity to
2 New York City (Bergen, Essex, Union and Hudson
3 Counties) .”.

4 **SEC. 3408. LOW-POWER TELEVISION TRANSITION PROVI-**
5 **SIONS.**

6 (a) REMOVAL AND RELOCATION.—Section 337(e) of
7 the Communications Act of 1934 (47 U.S.C. 337(e)) is
8 amended—

9 (1) in paragraph (1), by striking “person who”
10 and inserting “full-power television station licensee
11 that”;

12 (2) in paragraph (2), by striking “746 mega-
13 hertz” and inserting “698 megahertz”; and

14 (3) by adding at the end the following new
15 paragraph:

16 “(3) CONTINUATION OF LOW-POWER BROAD-
17 CASTING.—Subject to section 336(f) of the Commu-
18 nications Act (47 U.S.C. 336(f)), a low-power tele-
19 vision station, television translator station, or tele-
20 vision booster station (as defined by Commission
21 regulations) may operate above 698 megahertz on a
22 secondary basis in accordance with Commission
23 rules, including rules governing completion of the
24 digital television service transition for low-power
25 broadcasters.”.

1 (b) EXEMPTION FROM DEADLINE.—Section
 2 309(j)(14)(A) of such Act (47 U.S.C. 309(j)(14)(A)) is
 3 amended by by inserting “full-power” before “television
 4 broadcast license”.

5 (c) ADVANCED TELEVISION SERVICES.—Section
 6 336(f)(4) of such Act (47 U.S.C. 336(f)(4)) is amended
 7 by inserting “or other low-power station” after “television
 8 translator station” in the first sentence.

9 (d) LOW-POWER TELEVISION DIGITAL-TO-ANALOG
 10 CONVERSION.—Part C of the National Telecommuni-
 11 cations and Information Administration Organization Act
 12 is amended by adding after section 161 (as added by sec-
 13 tion 3407 of this Act) the following new section:

14 **“SEC. 162. LOW-POWER TELEVISION DIGITAL-TO-ANALOG**
 15 **CONVERSION.**

16 “(a) CREATION OF PROGRAM.—The Assistant Sec-
 17 retary shall use the funds available under subsection (d)
 18 from the Low-Power Digital-to-Analog Conversion Fund
 19 to implement and administer a program through which
 20 each eligible low-power television station may receive com-
 21 pensation toward the cost of the purchase of a digital-to-
 22 analog conversion device that enables it to convert the in-
 23 coming digital signal of its corresponding full-power tele-
 24 vision station to analog format for transmission on the
 25 low-power television station’s analog channel. An eligible

1 low-power television station may receive such compensa-
2 tion only if it submits a request for such compensation
3 on or before December 31, 2008.

4 “(b) ELIGIBLE STATIONS.—For purposes of this sec-
5 tion, an eligible low-power television station shall be a low-
6 power television broadcast station, Class A television sta-
7 tion, television translator station, or television booster sta-
8 tion—

9 “(1) that is itself broadcasting exclusively in
10 analog format; and

11 “(2) that has not purchased a digital-to-analog
12 conversion device prior to enactment of this section.

13 “(c) QUALIFYING DEVICES AND AMOUNTS.—The As-
14 sistant Secretary—

15 “(1) may determine the types of digital-to-ana-
16 log conversion devices for which an eligible low-
17 power broadcast television station may receive com-
18 pensation under this section; and

19 “(2) shall determine the maximum amount of
20 compensation such a low-power television broadcast
21 station may receive based on the average cost of
22 such digital-to-analog conversion devices during the
23 time period such low-power broadcast television sta-
24 tion purchased the digital-to-analog conversion de-

1 vice, but in no case shall such compensation exceed
2 \$400.

3 “(d) FUNDS AVAILABLE.—From the Low-Power
4 Digital-to-Analog Conversion Fund established by section
5 309(j)(8)(E)(i)(IV) of the Communications Act of 1934,
6 there shall be available to carry out this section such sums
7 as may be necessary for fiscal years 2008 and 2009. Any
8 sums that remain unexpended in such Fund at the end
9 of fiscal year 2009 shall revert to and be deposited in the
10 general fund of the Treasury.”.

11 (e) REPORT AND ORDER REQUIRED.—The Federal
12 Communications Commission shall, not later than Decem-
13 ber 31, 2008, issue a report and order specifying the
14 methods and schedule by which the Commission will com-
15 plete the digital television service transition for low-power
16 broadcasters.

17 **SEC. 3409. CONSUMER EDUCATION REGARDING ANALOG**
18 **TELEVISIONS.**

19 (a) COMMISSION AUTHORITY.—Section 303 of the
20 Communications Act of 1934 (47 U.S.C. 303) is amended
21 by adding at the end the following new subsection:

22 “(z) Require the consumer education measures speci-
23 fied in section 330(d) in the case of apparatus designed
24 to receive television signals that—

1 “(1) are shipped in interstate commerce or
2 manufactured in the United States;

3 “(2) have an integrated display screen or are
4 sold in a bundle with a display screen; and

5 “(3) are not capable of receiving broadcast sig-
6 nals in the digital television service.”.

7 (b) CONSUMER EDUCATION REQUIREMENTS.—Sec-
8 tion 330 of the Communications Act of 1934 (47 U.S.C.
9 330) is amended—

10 (1) in subsection (d), by striking “sections
11 303(s), 303(u), and 303(x)” and inserting “sub-
12 sections (s), (u), (x), and (z) of section 303”;

13 (2) by redesignating subsection (d) as sub-
14 section (e); and

15 (3) by inserting after subsection (c) the fol-
16 lowing new subsection:

17 “(d) CONSUMER EDUCATION REGARDING ANALOG
18 TELEVISION RECEIVERS.—

19 “(1) REQUIREMENTS FOR MANUFACTURERS.—
20 Any manufacturer of any apparatus described in
21 section 303(z) shall—

22 “(A) place in a conspicuous place on any
23 such apparatus that such manufacturer ships in
24 interstate commerce or manufactures in the
25 United States after 180 days after the date of

1 enactment of the Digital Television Transition
2 Act of 2005, a label containing, in clear and
3 conspicuous print, the warning language re-
4 quired by paragraph (3); and

5 “(B) also include after 180 days after the
6 date of enactment of the Digital Television
7 Transition Act of 2005, such warning language
8 on the outside of the retail packaging of such
9 apparatus, in a conspicuous place and in clear
10 and conspicuous print, in a manner that cannot
11 be removed.

12 “(2) REQUIREMENTS FOR RETAIL DISTRIBUTU-
13 TORS.—Any retail distributor shall place conspicu-
14 ously in the vicinity of each apparatus described in
15 section 303(z) that such distributor displays for sale
16 or rent after 45 days after the date of enactment of
17 the Digital Television Transition Act of 2005, a sign
18 containing, in clear and conspicuous print, the warn-
19 ing language required by paragraph (3). In the case
20 of a retail distributor vending such apparatus via di-
21 rect mail, catalog, or electronic means, such as dis-
22 plays on the Internet, the warning language required
23 by such paragraph shall be prominently displayed, in
24 clear and conspicuous print, in the vicinity of any
25 language describing the product.

1 “(3) WARNING LANGUAGE.—The warning lan-
2 guage required by this paragraph shall read as fol-
3 lows: ‘This television has only an analog broadcast
4 tuner. After December 31, 2008, television broad-
5 casters will broadcast only in digital format. You will
6 then need to connect this television to a digital-to-
7 analog converter box or cable or satellite service if
8 you wish to receive broadcast programming. The de-
9 vice, if any, that a cable or satellite subscriber will
10 need to connect to an analog television will depend
11 on the cable or satellite service provider. The tele-
12 vision should continue to work as before, however,
13 with devices such as VCRs, digital video recorders,
14 DVD players, and video game systems. For more in-
15 formation, call the Federal Communications Com-
16 mission at 1–888–225–5322 (TTY: 1–888–835–
17 5322) or visit the Commission’s website at:
18 www.fcc.gov.’.

19 “(4) COMMISSION AND NTIA OUTREACH.—Be-
20 ginning within one month after the date of enact-
21 ment of the Digital Television Transition Act of
22 2005, the Commission and the National Tele-
23 communications and Information Administration
24 shall engage, either jointly or separately, in a public
25 outreach program, including the distribution of ma-

1 materials on their web sites and in Government build-
2 ings, such as post offices, to educate consumers re-
3 garding the digital television transition. The Com-
4 mission and the National Telecommunications and
5 Information Administration may seek public com-
6 ment in crafting their public outreach program, and
7 may seek the assistance of private entities, such as
8 broadcasters, manufacturers, retailers, cable and
9 satellite operators, and consumer groups in admin-
10 istering the public outreach program. The program
11 shall educate consumers about—

12 “(A) the deadline for termination of analog
13 television broadcasting;

14 “(B) the options consumers have after
15 such termination to continue to receive broad-
16 cast programming; and

17 “(C) the converter box program under sec-
18 tion 159 of the National Telecommunications
19 and Information Administration Organization
20 Act.

21 “(5) ADDITIONAL DISCLOSURES.—

22 “(A) ANNOUNCEMENTS AND NOTICES RE-
23 QUIRED.—From January 1, 2008, through De-
24 cember 31, 2008—

1 “(i) each television broadcaster shall
2 air, at a minimum, two 60-second public
3 service announcements per day, one during
4 the 8 to 9 a.m. hour and one during the
5 8 to 9 p.m. hour; and

6 “(ii) each multichannel video program
7 distributor (as such term is defined in sec-
8 tion 602 of this Act) shall include a notice
9 in any periodic bill.

10 “(B) CONTENTS OF ANNOUNCEMENTS AND
11 NOTICES.—The announcements and notices re-
12 quired by subparagraphs (A)(i) and (A)(ii), re-
13 spectively, shall state, at a minimum, that:
14 ‘After December 31, 2008, television broad-
15 casters will broadcast only in digital format.
16 You will then no longer be able to receive
17 broadcast programming on analog-only tele-
18 visions unless those televisions are connected to
19 a digital-to-analog converter box or a cable or
20 satellite service. The device, if any, that a cable
21 or satellite subscriber will need to connect to an
22 analog television will depend on the cable or
23 satellite service provider. Analog-only televisions
24 should continue to work as before, however,
25 with devices such as VCRs, digital video record-

1 ers, DVD players, and video game systems. You
2 may be eligible for up to two coupons toward
3 the purchase of up to two converter-boxes. For
4 more information, call the Federal Communica-
5 tions Commission at 1-888-225-5322 (TTY:
6 1-888-835-5322) or visit the Commission's
7 website at: www.fcc.gov.'.

8 “(6) REPORT REQUIRED.—Beginning January
9 31, 2006, and ending July 31, 2008, the Commis-
10 sion and the National Telecommunications and In-
11 formation Administration, either jointly or sepa-
12 rately, shall submit reports every six months to the
13 Committee on Energy and Commerce of the House
14 of Representatives and the Committee on Commerce,
15 Science, and Transportation of the Senate, on the
16 Commission's and such Administration's consumer
17 education efforts, as well as the consumer education
18 efforts of broadcasters, cable and satellite operators,
19 consumer electronics manufacturers, retailers, and
20 consumer groups. The Commission and such Admin-
21 istration may solicit public comment in preparing
22 their reports.”.

23 (c) PRESERVING AND EXPEDITING TUNER MAN-
24 DATES.—The Federal Communications Commission—

1 (1) shall, within 30 days after the date of en-
2 actment of this Act revise the digital television re-
3 ception capability implementation schedule under
4 section 15.117(i) of its regulations (47 CFR
5 15.117(i)) to require, in the case of television recep-
6 tion devices that have, or are sold in a bundle with,
7 display screens sized 13 to 24 inches, inclusive, that
8 100 percent of all such units must include digital
9 television tuners effective March 1, 2007; and

10 (2) shall not make any other changes that ex-
11 tend or otherwise delay the digital television recep-
12 tion capability implementation schedule for television
13 reception devices that have, or are sold in a bundle
14 with, display screens.

15 **SEC. 3410. ADDITIONAL PROVISIONS.**

16 (a) DIGITAL-TO-ANALOG CONVERSION.—Section
17 614(b) of the Communications Act of 1934 (47 U.S.C.
18 534(b)) is amended by adding at the end the following
19 new paragraphs:

20 “(11) CARRIAGE OF DIGITAL FORMATS.—

21 “(A) PRIMARY VIDEO STREAM.—With re-
22 spect to any television station that is transmit-
23 ting broadcast programming exclusively in the
24 digital television service in a local market, a
25 cable operator of a cable system in that market

1 shall carry the station's primary video stream
2 and program-related material in the digital for-
3 mat transmitted by that station, without mate-
4 rial degradation, if the licensee for that sta-
5 tion—

6 “(i) relies on this section or section
7 615 to obtain carriage of the primary video
8 stream and program-related material on
9 that cable system in that market; and

10 “(ii) permits the cable system to carry
11 without compensation any other program-
12 ming broadcast by that station that is car-
13 ried on that system.

14 “(B) MULTIPLE FORMATS PERMITTED.—A
15 cable operator of a cable system may offer the
16 primary video stream and program-related ma-
17 terial of a local television station described in
18 subparagraph (A) in any analog or digital for-
19 mat or formats, whether or not doing so re-
20 quires conversion from the format transmitted
21 by the local television station, so long as—

22 “(i) the cable operator offers the pri-
23 mary video stream and program-related
24 material in the converted analog or digital

1 format or formats without material deg-
2 radation; and

3 “(ii) also offers the primary video
4 stream and program-related material in
5 the manner or manners required by this
6 paragraph.

7 “(C) TRANSITIONAL CONVERSIONS.—Not-
8 withstanding the requirement in subparagraph
9 (A) to carry the primary video stream and pro-
10 gram-related material in the digital format
11 transmitted by the local television station, but
12 subject to the prohibition on material degrada-
13 tion, until January 1, 2014—

14 “(i) a cable operator—

15 “(I) shall offer the primary video
16 stream and program-related material
17 in the format or formats necessary for
18 such stream and material to be
19 viewable on analog and digital tele-
20 visions; and

21 “(II) may convert the primary
22 video stream and program-related ma-
23 terial to standard-definition digital
24 format in lieu of offering it in the dig-

1 ital format transmitted by the local
2 television station;

3 “(ii) notwithstanding clause (i), a
4 cable operator of a cable system with an
5 activated capacity of 550 megahertz or
6 less—

7 “(I) shall offer the primary video
8 stream and program-related material
9 of the local television station described
10 in subparagraph (A), converted to an
11 analog format; and

12 “(II) may, but shall not be re-
13 quired to, offer the primary video
14 stream and program-related material
15 in any digital format or formats.

16 “(D) LOCATION AND METHOD OF CONVER-
17 SION.—

18 “(i) A cable operator of a cable sys-
19 tem may perform any conversion permitted
20 or required by this paragraph at any loca-
21 tion, from the cable head-end to the cus-
22 tomer premises, inclusive.

23 “(ii) Notwithstanding any other provi-
24 sion of this Act other than the prohibition
25 on material degradation, a cable operator

1 may use switched digital video technology
2 to accomplish any conversion or trans-
3 mission permitted or required by this para-
4 graph.

5 “(E) CONVERSIONS NOT TREATED AS DEG-
6 RADATION.—Any conversion permitted or re-
7 quired by this paragraph shall not, by itself, be
8 treated as a material degradation.

9 “(F) CARRIAGE OF PROGRAM-RELATED
10 MATERIAL.—The obligation to carry program-
11 related material under this paragraph is effec-
12 tive only to the extent technically feasible.

13 “(G) DEFINITION OF STANDARD-DEFINI-
14 TION FORMAT.—For purposes of this para-
15 graph, a stream shall be in standard definition
16 digital format if such stream meets the criteria
17 for such format as specified in the standard
18 recognized by the Commission in section 73.682
19 of its rules (47 CFR 73.682) or a successor
20 regulation.”.

21 (b) TIERING.—Clause (iii) of section 623(b)(7)(A) of
22 such Act (47 U.S.C. 543(b)(7)(A)(iii)) is amended to read
23 as follows:

24 “(iii) Both of the following signals:

1 “(I) the primary video stream
2 and program-related material of any
3 television broadcast station that is
4 provided by the cable operator to any
5 subscriber in an analog format, and

6 “(II) the primary video stream
7 and program-related material—

8 “(aa) of any television
9 broadcast station that is trans-
10 mitting exclusively in digital for-
11 mat, and

12 “(bb) that is provided by the
13 cable operator to any subscriber
14 in a digital format,

15 but excluding a signal that is secondarily
16 transmitted by a satellite carrier beyond
17 the local service area of such station.”.

18 (c) COMPARABLE TREATMENT OF SATELLITE CAR-
19 RIERS.—Section 338 of the Communications Act of 1934
20 (47 U.S.C. 338) is amended—

21 (1) by adding at the end the following new sub-
22 section:

23 “(l) SPECIFIC CARRIAGE OBLIGATIONS AFTER DIG-
24 ITAL TRANSITION.—

1 “(1) CARRIAGE OF DIGITAL FORMATS.—With
2 respect to any television station that requests car-
3 riage under this section and that is transmitting
4 broadcast programming exclusively in the digital tel-
5 evision service in a local market in the contiguous
6 United States (hereafter in this paragraph referred
7 to as an eligible requesting station), a satellite car-
8 rier carrying the digital signal of any other local tel-
9 evision station in that local market shall carry the
10 eligible requesting station’s primary video stream
11 and program-related material, without material deg-
12 radation, if the licensee for that eligible requesting
13 station—

14 “(A) relies on this section to obtain car-
15 riage of the primary video stream and program-
16 related material by that satellite carrier in that
17 market; and

18 “(B) permits the satellite carrier to carry
19 without compensation any other programming
20 broadcast by that local station that is carried
21 on that system.

22 “(2) FORMATTING OF PRIMARY VIDEO
23 STREAM.—A satellite carrier must offer the primary
24 video stream and program-related material of an eli-
25 gible requesting station in the digital format trans-

mitted by the station if the satellite carrier carries the primary video stream of any other local television station in that local market in the same digital format.

“(3) MULTIPLE FORMATS PERMITTED.—A satellite carrier may offer the primary video stream and program-related material of an eligible requesting station in any analog or digital format or formats, whether or not doing so requires conversion from the format transmitted by that eligible requesting station, so long as—

“(A) the satellite carrier offers the primary video stream and program-related material in the converted analog or digital format or formats without material degradation; and

“(B) also offers the primary video stream and program-related material in the manner or manners required by this subsection.

“(4) TRANSITIONAL CONVERSIONS.—Notwithstanding any requirement in paragraphs (1) and (2) to carry the primary video stream and program-related material in the digital format transmitted by the local television station, but subject to the prohibition on material degradation, until January 1, 2014, a satellite carrier—

1 “(A) shall offer the primary video stream
2 and program-related material of any local tele-
3 vision broadcast station required to be carried
4 under paragraph (1) in the format necessary
5 for such stream to be viewable on analog and
6 digital televisions; and

7 “(B) may convert the primary video
8 stream and program-related material to stand-
9 ard-definition format in lieu of offering it in the
10 digital format transmitted by the local television
11 station.

12 “(5) LOCATION AND METHOD OF CONVER-
13 SION.—A satellite carrier may perform any conver-
14 sion permitted or required by this subsection at any
15 location, from the local receive facility to the cus-
16 tomer premises, inclusive.

17 “(6) CONVERSIONS NOT TREATED AS DEGRADA-
18 TION.—Any conversion permitted or required by this
19 subsection shall not, by itself, be treated as a mate-
20 rial degradation.

21 “(7) CARRIAGE OF PROGRAM-RELATED MATE-
22 RIAL.—The obligation to carry program-related ma-
23 terial under this subsection is effective only to the
24 extent technically feasible.

1 “(8) DEFINITION OF STANDARD-DEFINITION
2 FORMAT.—For purposes of this subsection, a stream
3 shall be in standard definition digital format if such
4 stream meets the criteria for such format as speci-
5 fied in the standard recognized by the Commission
6 in section 73.682 of its rules (47 CFR 73.682) or
7 a successor regulation.”;

8 (2) in subsection (b)(1), by striking “subsection
9 (a)” and inserting “subsection (a) or (l)”;

10 (3) in subsection (c)(1), by striking “subsection
11 (a)(1)” and inserting “subsections (a)(1) and (l)”;
12 and

13 (4) in subsection (c)(2), by striking “subsection
14 (a)” and inserting “subsections (a) and (l)”.

15 (d) DEADLINE.—The Federal Communications Com-
16 mission shall revise its regulations to implement the
17 amendments made by this section within one year after
18 the date of enactment of this Act.

19 **SEC. 3411. DEPLOYMENT OF BROADBAND WIRELESS TECH-**
20 **NOLOGIES.**

21 Not later than 45 days after the effective date of this
22 Act, the Commission shall initiate a rulemaking to assess
23 the necessity of rechannelizing the spectrum located be-
24 tween 767–773 megahertz and 797–803 megahertz to ac-

1 commodate broadband applications. Such rulemaking shall
2 be completed within 180 days.

3 **SEC. 3412. SENSE OF CONGRESS.**

4 (a) FINDINGS.—The Congress finds the following:

5 (1) The wireless communications industry in
6 the United States is becoming increasingly con-
7 centrated: there are currently no ownership limita-
8 tions on wireless companies, and the five largest
9 wireless carriers in the United States control nearly
10 90 percent of United States wireless subscribership.

11 (2) Over 90 percent of households receive their
12 broadband services through either cable or digital
13 subscriber line (DSL) service, and most cable and
14 DSL providers are heavily concentrated within their
15 geographic markets.

16 (3) Under the Omnibus Budget and Reconcili-
17 ation Act of 1993, Congress tasked the Federal
18 Communications Commission to promote economic
19 opportunity by disseminating wireless communica-
20 tions licenses among a wide variety of applicants, in-
21 cluding small businesses and rural telephone compa-
22 nies.

23 (4) Upcoming auctions for the returned analog
24 broadcast spectrum in the 700 megahertz band that
25 will be cleared following the transition from analog

1 to digital broadcast television and Advanced Wireless
2 Services (AWS) in the 1710–1755 megahertz and
3 2110–2155 megahertz bands will likely be the last
4 reallocation opportunities for commercial wireless
5 communications services and wireless broadband
6 services in the foreseeable future.

7 (5) In the near term, wireless broadband pre-
8 sents the most promising opportunity to provide a
9 third option (other than cable modem or DSL serv-
10 ice) for broadband Internet access for most con-
11 sumers, and the spectrum in the 700 megahertz
12 band is considered “beachfront” property by tele-
13 communications carriers because wireless signals at
14 this frequency range pass easily through buildings,
15 trees, and other interference.

16 (6) The 700 megahertz band offers a historic
17 opportunity to provide the equivalent of a “third
18 wire” into the home – an alternative to telephone or
19 cable broadband access that will create new competi-
20 tion and incentives for new entrants, innovation, and
21 broader service offerings.

22 (b) SENSE OF THE CONGRESS.—It is the sense of
23 the Congress that the Federal Communications Commis-
24 sion should disseminate wireless communications licenses
25 consistent with the findings in subsection (a) and do so

1 utilizing its existing authority under section 309(j) of the
2 Communications Act of 1934, which requires the Commis-
3 sion to promote the following objectives:

4 (1) the development and rapid deployment of
5 new technologies, products, and services for the ben-
6 efit of the public, including those residing in rural
7 areas, without administrative or judicial delays;

8 (2) promoting economic opportunity and com-
9 petition and ensuring that new and innovative tech-
10 nologies are readily accessible to the American peo-
11 ple by avoiding excessive concentration of licenses
12 and by disseminating licenses among a wide variety
13 of applicants, including small businesses and rural
14 telephone companies;

15 (3) recovery for the public of a portion of the
16 value of the public spectrum resource made available
17 for commercial use and avoidance of unjust enrich-
18 ment through the methods employed to award uses
19 of that resource; and

20 (4) efficient and intensive use of the electro-
21 magnetic spectrum.

22 **SEC. 3413. BAND PLAN REVISION REQUIRED.**

23 (a) PROCEEDING REQUIRED.—The Federal Commu-
24 nications Commission shall commence a proceeding no
25 later than June 1, 2006, to reevaluate the band plan for

1 the auction of the unauctioned portions of the lower 700
 2 megahertz band (currently designated as Blocks A, B, and
 3 E).

4 (b) RECONFIGURATION REQUIRED.—The Federal
 5 Communications Commission shall reconfigure the band
 6 plan to license spectrum for Block B of such portion ac-
 7 cording to Cellular Market Areas (i.e., Metropolitan Sta-
 8 tistical Areas (“MSAs”) and Rural Service Areas
 9 (“RSAs”)) to facilitate the offering of competitive wireless
 10 services by regional and smaller wireless carriers.

11 **TITLE IV—COMMITTEE ON** 12 **FINANCIAL SERVICES**

13 **SECTION 4000. TABLE OF CONTENTS.**

14 The table of contents for this title is as follows:

Sec. 4000. Table of contents.

Subtitle A—Deposit Insurance Reform

Sec. 4001. Short title.

Sec. 4002. Merging the BIF and SAIF.

Sec. 4003. Increase in deposit insurance coverage.

Sec. 4004. Setting assessments and repeal of special rules relating to minimum assessments and free deposit insurance.

Sec. 4005. Replacement of fixed designated reserve ratio with reserve range.

Sec. 4006. Requirements applicable to the risk-based assessment system.

Sec. 4007. Refunds, dividends, and credits from Deposit Insurance Fund.

Sec. 4008. Deposit Insurance Fund restoration plans.

Sec. 4009. Regulations required.

Sec. 4010. Studies of FDIC structure and expenses and certain activities and further possible changes to deposit insurance system.

Sec. 4011. Bi-annual FDIC survey and report on increasing the deposit base by encouraging use of depository institutions by the unbanked.

Sec. 4012. Technical and conforming amendments to the Federal Deposit Insurance Act relating to the merger of the BIF and SAIF.

Sec. 4013. Other technical and conforming amendments relating to the merger of the BIF and SAIF.

Subtitle B—FHA Asset Disposition

Sec. 4101. Short title.

Sec. 4102. Definitions.

Sec. 4103. Appropriated funds requirement for below market sales.

Sec. 4104. Up-front grants.

1 **Subtitle A—Deposit Insurance** 2 **Reform**

3 **SEC. 4001. SHORT TITLE.**

4 This subtitle may be cited as the “Federal Deposit
5 Insurance Reform Act of 2005”.

6 **SEC. 4002. MERGING THE BIF AND SAIF.**

7 (a) IN GENERAL.—

8 (1) MERGER.—The Bank Insurance Fund and
9 the Savings Association Insurance Fund shall be
10 merged into the Deposit Insurance Fund.

11 (2) DISPOSITION OF ASSETS AND LIABIL-
12 ITIES.—All assets and liabilities of the Bank Insur-
13 ance Fund and the Savings Association Insurance
14 Fund shall be transferred to the Deposit Insurance
15 Fund.

16 (3) NO SEPARATE EXISTENCE.—The separate
17 existence of the Bank Insurance Fund and the Sav-
18 ings Association Insurance Fund shall cease on the
19 effective date of the merger thereof under this sec-
20 tion.

21 (b) REPEAL OF OUTDATED MERGER PROVISION.—
22 Section 2704 of the Deposit Insurance Funds Act of 1996
23 (12 U.S.C. 1821 note) is repealed.

1 (c) **EFFECTIVE DATE.**—This section shall take effect
2 on the first day of the first calendar quarter that begins
3 after the end of the 90-day period beginning on the date
4 of the enactment of this Act.

5 **SEC. 4003. INCREASE IN DEPOSIT INSURANCE COVERAGE.**

6 (a) **IN GENERAL.**—Section 11(a)(1) of the Federal
7 Deposit Insurance Act (12 U.S.C. 1821(a)(1)) is amend-
8 ed—

9 (1) by striking subparagraph (B) and inserting
10 the following new subparagraph:

11 “(B) **NET AMOUNT OF INSURED DE-**
12 **POSIT.**—The net amount due to any depositor
13 at an insured depository institution shall not
14 exceed the standard maximum deposit insur-
15 ance amount as determined in accordance with
16 subparagraphs (C), (D), (E) and (F) and para-
17 graph (3).”; and

18 (2) by adding at the end the following new sub-
19 paragraphs:

20 “(E) **STANDARD MAXIMUM DEPOSIT IN-**
21 **SURANCE AMOUNT DEFINED.**—For purposes of
22 this Act, the term ‘standard maximum deposit
23 insurance amount’ means—

24 “(i) until the effective date of final
25 regulations prescribed pursuant to section

1 4009(a)(2) of the Federal Deposit Insur-
2 ance Reform Act of 2005, \$100,000; and

3 “(ii) on and after such effective date,
4 \$130,000, adjusted as provided under sub-
5 paragraph (F).

6 “(F) INFLATION ADJUSTMENT.—

7 “(i) IN GENERAL.—By April 1 of
8 2007, and the 1st day of each subsequent
9 5-year period, the Board of Directors and
10 the National Credit Union Administration
11 Board shall jointly prescribe the amount
12 by which the standard maximum deposit
13 insurance amount and the standard max-
14 imum share insurance amount (as defined
15 in section 207(k) of the Federal Credit
16 Union Act) applicable to any depositor at
17 an insured depository institution shall be
18 increased by calculating the product of—

19 “(I) \$130,000; and

20 “(II) the ratio of the value of the
21 Personal Consumption Expenditures
22 Chain-Type Index (or any successor
23 index thereto), published by the De-
24 partment of Commerce, as of Decem-
25 ber 31 of the year preceding the year

1 in which the adjustment is calculated
2 under this clause, to the value of such
3 index as of the date this subpara-
4 graph takes effect.

5 “(ii) ROUNDING.—If the amount de-
6 termined under clause (ii) for any period is
7 not a multiple of \$10,000, the amount so
8 determined shall be rounded to the nearest
9 \$10,000.

10 “(iii) PUBLICATION AND REPORT TO
11 THE CONGRESS.—Not later than April 5 of
12 any calendar year in which an adjustment
13 is required to be calculated under clause (i)
14 to the standard maximum deposit insur-
15 ance amount and the standard maximum
16 share insurance amount under such clause,
17 the Board of Directors and the National
18 Credit Union Administration Board
19 shall—

20 “(I) publish in the Federal Reg-
21 ister the standard maximum deposit
22 insurance amount, the standard max-
23 imum share insurance amount, and
24 the amount of coverage under para-
25 graph (3)(A) and section 207(k)(3) of

1 the Federal Credit Union Act, as so
2 calculated; and

3 “(II) jointly submit a report to
4 the Congress containing the amounts
5 described in subclause (I).

6 “(iv) 6-MONTH IMPLEMENTATION PE-
7 RIOD.—Unless an Act of Congress enacted
8 before July 1 of the calendar year in which
9 an adjustment is required to be calculated
10 under clause (i) provides otherwise, the in-
11 crease in the standard maximum deposit
12 insurance amount and the standard max-
13 imum share insurance amount shall take
14 effect on January 1 of the year imme-
15 diately succeeding such calendar year.”.

16 (b) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT
17 PLAN DEPOSITS.—Section 11(a)(1)(D) of the Federal De-
18 posit Insurance Act (12 U.S.C. 1821(a)(1)(D)) is amend-
19 ed to read as follows:

20 “(D) COVERAGE FOR CERTAIN EMPLOYEE
21 BENEFIT PLAN DEPOSITS.—

22 “(i) PASS-THROUGH INSURANCE.—
23 The Corporation shall provide pass-
24 through deposit insurance for the deposits
25 of any employee benefit plan.

1 “(ii) PROHIBITION ON ACCEPTANCE
2 OF BENEFIT PLAN DEPOSITS.—An insured
3 depository institution that is not well cap-
4 italized or adequately capitalized may not
5 accept employee benefit plan deposits.

6 “(iii) DEFINITIONS.—For purposes of
7 this subparagraph, the following definitions
8 shall apply:

9 “(I) CAPITAL STANDARDS.—The
10 terms ‘well capitalized’ and ‘ade-
11 quately capitalized’ have the same
12 meanings as in section 38.

13 “(II) EMPLOYEE BENEFIT
14 PLAN.—The term ‘employee benefit
15 plan’ has the same meaning as in
16 paragraph (8)(B)(ii), and includes any
17 eligible deferred compensation plan
18 described in section 457 of the Inter-
19 nal Revenue Code of 1986.

20 “(III) PASS-THROUGH DEPOSIT
21 INSURANCE.—The term ‘pass-through
22 deposit insurance’ means, with respect
23 to an employee benefit plan, deposit
24 insurance coverage provided on a pro
25 rata basis to the participants in the

1 plan, in accordance with the interest
2 of each participant.”.

3 (c) DOUBLING OF DEPOSIT INSURANCE FOR CER-
4 TAIN RETIREMENT ACCOUNTS.—Section 11(a)(3)(A) of
5 the Federal Deposit Insurance Act (12 U.S.C.
6 1821(a)(3)(A)) is amended by striking “\$100,000” and
7 inserting “2 times the standard maximum deposit insur-
8 ance amount (as determined under paragraph (1))”.

9 (d) INCREASED INSURANCE COVERAGE FOR MUNIC-
10 IPAL DEPOSITS.—Section 11(a)(2) of the Federal Deposit
11 Insurance Act (12 U.S.C. 1821(a)(2)) is amended—

12 (1) in subparagraph (A)—

13 (A) by moving the margins of clauses (i)
14 through (v) 4 ems to the right;

15 (B) by striking, in the matter following
16 clause (v), “such depositor shall” and all that
17 follows through the period; and

18 (C) by striking the semicolon at the end of
19 clause (v) and inserting a period;

20 (2) by striking “(2)(A) Notwithstanding” and
21 all that follows through “a depositor who is—” and
22 inserting the following:

23 “(2) MUNICIPAL DEPOSITORS.—

24 “(A) IN GENERAL.—Notwithstanding any
25 limitation in this Act or in any other provision

1 of law relating to the amount of deposit insur-
2 ance available to any 1 depositor—

3 “(i) a municipal depositor shall, for
4 the purpose of determining the amount of
5 insured deposits under this subsection, be
6 deemed to be a depositor separate and dis-
7 tinct from any other officer, employee, or
8 agent of the United States or any public
9 unit referred to in subparagraph (E); and

10 “(ii) except as provided in subpara-
11 graph (B), the deposits of a municipal de-
12 positor shall be insured in an amount
13 equal to the standard maximum deposit in-
14 surance amount (as determined under
15 paragraph (1)).

16 “(B) IN-STATE MUNICIPAL DEPOSITORS.—

17 In the case of the deposits of an in-State mu-
18 nicipal depositor described in clause (ii), (iii),
19 (iv), or (v) of subparagraph (E) at an insured
20 depository institution, such deposits shall be in-
21 sured in an amount not to exceed the lesser
22 of—

23 “(i) \$2,000,000; or

24 “(ii) the sum of the standard max-
25 imum deposit insurance amount and 80

1 percent of the amount of any deposits in
2 excess of the standard maximum deposit
3 insurance amount.

4 “(C) MUNICIPAL DEPOSIT PARITY.—No
5 State may deny to insured depository institu-
6 tions within its jurisdiction the authority to ac-
7 cept deposits insured under this paragraph, or
8 prohibit the making of such deposits in such in-
9 stitutions by any in-State municipal depositor.

10 “(D) IN-STATE MUNICIPAL DEPOSITOR DE-
11 FINED.—For purposes of this paragraph, the
12 term ‘in-State municipal depositor’ means a
13 municipal depositor that is located in the same
14 State as the office or branch of the insured de-
15 pository institution at which the deposits of
16 that depositor are held.

17 “(E) MUNICIPAL DEPOSITOR.—In this
18 paragraph, the term ‘municipal depositor’
19 means a depositor that is—”;

20 (3) by striking “(B) The” and inserting the fol-
21 lowing:

22 “(F) AUTHORITY TO LIMIT DEPOSITS.—
23 The”; and

1 (4) by striking “depositor referred to in sub-
2 paragraph (A) of this paragraph” each place such
3 term appears and inserting “municipal depositor”.

4 (e) TECHNICAL AND CONFORMING AMENDMENT RE-
5 LATING TO INSURANCE OF TRUST FUNDS.—Paragraphs
6 (1) and (3) of section 7(i) of the Federal Deposit Insur-
7 ance Act (12 U.S.C. 1817(i)) are each amended by strik-
8 ing “\$100,000” and inserting “the standard maximum de-
9 posit insurance amount (as determined under section
10 11(a)(1))”.

11 (f) OTHER TECHNICAL AND CONFORMING AMEND-
12 MENTS.—

13 (1) Section 11(m)(6) of the Federal Deposit In-
14 surance Act (12 U.S.C. 1821(m)(6)) is amended by
15 striking “\$100,000” and inserting “an amount equal
16 to the standard maximum deposit insurance
17 amount”.

18 (2) Subsection (a) of section 18 of the Federal
19 Deposit Insurance Act (12 U.S.C. 1828(a)) is
20 amended to read as follows:

21 “(a) INSURANCE LOGO.—

22 “(1) INSURED DEPOSITORY INSTITUTIONS.—

23 “(A) IN GENERAL.—Each insured deposi-
24 tory institution shall display at each place of
25 business maintained by that institution a sign

1 or signs relating to the insurance of the depos-
2 its of the institution, in accordance with regula-
3 tions to be prescribed by the Corporation.

4 “(B) STATEMENT TO BE INCLUDED.—

5 Each sign required under subparagraph (A)
6 shall include a statement that insured deposits
7 are backed by the full faith and credit of the
8 United States Government.

9 “(2) REGULATIONS.—The Corporation shall
10 prescribe regulations to carry out this subsection, in-
11 cluding regulations governing the substance of signs
12 required by paragraph (1) and the manner of dis-
13 play or use of such signs.

14 “(3) PENALTIES.—For each day that an in-
15 sured depository institution continues to violate this
16 subsection or any regulation issued under this sub-
17 section, it shall be subject to a penalty of not more
18 than \$100, which the Corporation may recover for
19 its use.”.

20 (3) Section 43(d) of the Federal Deposit Insur-
21 ance Act (12 U.S.C. 1831t(d)) is amended by strik-
22 ing “\$100,000” and inserting “an amount equal to
23 the standard maximum deposit insurance amount”.

24 (4) Section 6 of the International Banking Act
25 of 1978 (12 U.S.C. 3104) is amended—

1 (A) by striking “\$100,000” each place
 2 such term appears and inserting “an amount
 3 equal to the standard maximum deposit insur-
 4 ance amount”; and

5 (B) by adding at the end the following new
 6 subsection:

7 “(e) STANDARD MAXIMUM DEPOSIT INSURANCE
 8 AMOUNT DEFINED.—For purposes of this section, the
 9 term ‘standard maximum deposit insurance amount’
 10 means the amount of the maximum amount of deposit in-
 11 surance as determined under section 11(a)(1) of the Fed-
 12 eral Deposit Insurance Act.”.

13 (g) CONFORMING CHANGE TO CREDIT UNION SHARE
 14 INSURANCE FUND.—

15 (1) IN GENERAL.—Section 207(k) of the Fed-
 16 eral Credit Union Act (12 U.S.C. 1787(k)) is
 17 amended—

18 (A) by striking “(k)(1)” and all that fol-
 19 lows through the end of paragraph (1) and in-
 20 serting the following:

21 “(k) INSURED AMOUNTS PAYABLE.—

22 “(1) NET INSURED AMOUNT.—

23 “(A) IN GENERAL.—Subject to the provi-
 24 sions of paragraph (2), the net amount of share
 25 insurance payable to any member at an insured

1 credit union shall not exceed the total amount
2 of the shares or deposits in the name of the
3 member (after deducting offsets), less any part
4 thereof which is in excess of the standard maximum share insurance amount, as determined
5 in accordance with this paragraph and paragraphs (5) and (6), and consistently with actions taken by the Federal Deposit Insurance
6 Corporation under section 11(a) of the Federal
7 Deposit Insurance Act.

11 “(B) AGGREGATION.—Determination of
12 the net amount of share insurance under subparagraph (A), shall be in accordance with such
13 regulations as the Board may prescribe, and, in
14 determining the amount payable to any member,
15 there shall be added together all accounts
16 in the credit union maintained by that member
17 for that member’s own benefit, either in the
18 member’s own name or in the names of others.

20 “(C) AUTHORITY TO DEFINE THE EXTENT
21 OF COVERAGE.—The Board may define, with
22 such classifications and exceptions as it may
23 prescribe, the extent of the share insurance coverage provided for member accounts, including
24

1 member accounts in the name of a minor, in
2 trust, or in joint tenancy.”;

3 (B) in paragraph (2)—

4 (i) in subparagraph (A)—

5 (I) in clauses (i) through (v), by
6 moving the margins 4 ems to the
7 right;

8 (II) in the matter following
9 clause (v), by striking “his account”
10 and all that follows through the pe-
11 riod; and

12 (III) by striking the semicolon at
13 the end of clause (v) and inserting a
14 period;

15 (ii) by striking “(2)(A) Notwith-
16 standing” and all that follows through “a
17 depositor or member who is—” and insert-
18 ing the following:

19 “(2) MUNICIPAL DEPOSITORS OR MEMBERS.—

20 “(A) IN GENERAL.—Notwithstanding any
21 limitation in this Act or in any other provision
22 of law relating to the amount of insurance
23 available to any 1 depositor or member, depos-
24 its or shares of a municipal depositor or mem-
25 ber shall be insured in an amount equal to the

1 standard maximum share insurance amount (as
2 determined under paragraph (5)), except as
3 provided in subparagraph (B).

4 “(B) IN-STATE MUNICIPAL DEPOSITORS.—

5 In the case of the deposits of an in-State mu-
6 nicipal depositor described in clause (ii), (iii),
7 (iv), or (v) of subparagraph (E) at an insured
8 credit union, such deposits shall be insured in
9 an amount equal to the lesser of—

10 “(i) \$2,000,000; or

11 “(ii) the sum of the standard max-
12 imum deposit insurance amount and 80
13 percent of the amount of any deposits in
14 excess of the standard maximum deposit
15 insurance amount.

16 “(C) RULE OF CONSTRUCTION.—No provi-

17 sion of this paragraph shall be construed as au-
18 thorizing an insured credit union to accept the
19 deposits of a municipal depositor in an amount
20 greater than such credit union is authorized to
21 accept under any other provision of Federal or
22 State law.

23 “(D) IN-STATE MUNICIPAL DEPOSITOR DE-

24 FINED.—For purposes of this paragraph, the
25 term ‘in-State municipal depositor’ means a

1 municipal depositor that is located in the same
2 State as the office or branch of the insured
3 credit union at which the deposits of that de-
4 positor are held.

5 “(E) MUNICIPAL DEPOSITOR.—In this
6 paragraph, the term ‘municipal depositor’
7 means a depositor that is—”;

8 (iii) by striking “(B) The” and insert-
9 ing the following:

10 “(F) AUTHORITY TO LIMIT DEPOSITS.—
11 The”; and

12 (iv) by striking “depositor or member
13 referred to in subparagraph (A)” and in-
14 serting “municipal depositor or member”;
15 and

16 (C) by adding at the end the following new
17 paragraphs:

18 “(4) COVERAGE FOR CERTAIN EMPLOYEE BEN-
19 EFIT PLAN DEPOSITS.—

20 “(A) PASS-THROUGH INSURANCE.—The
21 Administration shall provide pass-through share
22 insurance for the deposits or shares of any em-
23 ployee benefit plan.

24 “(B) PROHIBITION ON ACCEPTANCE OF
25 DEPOSITS.—An insured credit union that is not

1 well capitalized or adequately capitalized may
2 not accept employee benefit plan deposits.

3 “(C) DEFINITIONS.—For purposes of this
4 paragraph, the following definitions shall apply:

5 “(i) CAPITAL STANDARDS.—The
6 terms ‘well capitalized’ and ‘adequately
7 capitalized’ have the same meanings as in
8 section 216(c).

9 “(ii) EMPLOYEE BENEFIT PLAN.—
10 The term ‘employee benefit plan’—

11 “(I) has the meaning given to
12 such term in section 3(3) of the Em-
13 ployee Retirement Income Security
14 Act of 1974;

15 “(II) includes any plan described
16 in section 401(d) of the Internal Rev-
17 enue Code of 1986; and

18 “(III) includes any eligible de-
19 ferred compensation plan described in
20 section 457 of the Internal Revenue
21 Code of 1986.

22 “(iii) PASS-THROUGH SHARE INSUR-
23 ANCE.—The term ‘pass-through share in-
24 surance’ means, with respect to an em-
25 ployee benefit plan, insurance coverage

1 provided on a pro rata basis to the partici-
2 pants in the plan, in accordance with the
3 interest of each participant.

4 “(D) RULE OF CONSTRUCTION.—No provi-
5 sion of this paragraph shall be construed as au-
6 thorizing an insured credit union to accept the
7 deposits of an employee benefit plan in an
8 amount greater than such credit union is au-
9 thorized to accept under any other provision of
10 Federal or State law.

11 “(5) STANDARD MAXIMUM SHARE INSURANCE
12 AMOUNT DEFINED.—For purposes of this Act, the
13 term ‘standard maximum share insurance amount’
14 means—

15 “(A) until the effective date of final regula-
16 tions prescribed pursuant to section 4009(a)(2)
17 of the Federal Deposit Insurance Reform Act of
18 2005, \$100,000; and

19 “(B) on and after such effective date,
20 \$130,000, adjusted as provided under section
21 11(a)(1)(F) of the Federal Deposit Insurance
22 Act.”.

23 (2) DOUBLING OF SHARE INSURANCE FOR CER-
24 TAIN RETIREMENT ACCOUNTS.—Section 207(k)(3)
25 of the Federal Credit Union Act (12 U.S.C.

1 1787(k)(3)) is amended by striking “\$100,000” and
2 inserting “2 times the standard maximum share in-
3 surance amount (as determined under paragraph
4 (1))”.

5 (h) EFFECTIVE DATE.—This section and the amend-
6 ments made by this section shall take effect on the date
7 the final regulations required under section 4009(a)(2)
8 take effect.

9 **SEC. 4004. SETTING ASSESSMENTS AND REPEAL OF SPE-**
10 **CIAL RULES RELATING TO MINIMUM ASSESS-**
11 **MENTS AND FREE DEPOSIT INSURANCE.**

12 (a) SETTING ASSESSMENTS.—Section 7(b)(2) of the
13 Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is
14 amended—

15 (1) by striking subparagraphs (A) and (B) and
16 inserting the following new subparagraphs:

17 “(A) IN GENERAL.—The Board of Direc-
18 tors shall set assessments for insured depository
19 institutions in such amounts as the Board of
20 Directors may determine to be necessary or ap-
21 propriate, subject to subparagraph (D).

22 “(B) FACTORS TO BE CONSIDERED.—In
23 setting assessments under subparagraph (A),
24 the Board of Directors shall consider the fol-
25 lowing factors:

1 “(i) The estimated operating expenses
2 of the Deposit Insurance Fund.

3 “(ii) The estimated case resolution ex-
4 penses and income of the Deposit Insur-
5 ance Fund.

6 “(iii) The projected effects of the pay-
7 ment of assessments on the capital and
8 earnings of insured depository institutions.

9 “(iv) the risk factors and other factors
10 taken into account pursuant to paragraph
11 (1) under the risk-based assessment sys-
12 tem, including the requirement under such
13 paragraph to maintain a risk-based sys-
14 tem.

15 “(v) Any other factors the Board of
16 Directors may determine to be appro-
17 priate.”; and

18 (2) by inserting after subparagraph (C) the fol-
19 lowing new subparagraph:

20 “(D) BASE RATE FOR ASSESSMENTS.—

21 “(i) IN GENERAL.—In setting assess-
22 ment rates pursuant to subparagraph (A),
23 the Board of Directors shall establish a
24 base rate of not more than 1 basis point
25 (exclusive of any credit or dividend) for

1 those insured depository institutions in the
2 lowest-risk category under the risk-based
3 assessment system established pursuant to
4 paragraph (1). No insured depository insti-
5 tution shall be barred from the lowest-risk
6 category solely because of size.

7 “(ii) SUSPENSION.—Clause (i) shall
8 not apply during any period in which the
9 reserve ratio of the Deposit Insurance
10 Fund is less than the amount which is
11 equal to 1.15 percent of the aggregate esti-
12 mated insured deposits.”.

13 (b) ASSESSMENT RECORDKEEPING PERIOD SHORT-
14 ENED.—Paragraph (5) of section 7(b) of the Federal De-
15 posit Insurance Act (12 U.S.C. 1817(b)) is amended to
16 read as follows:

17 “(5) DEPOSITORY INSTITUTION REQUIRED TO
18 MAINTAIN ASSESSMENT-RELATED RECORDS.—Each
19 insured depository institution shall maintain all
20 records that the Corporation may require for
21 verifying the correctness of any assessment on the
22 insured depository institution under this subsection
23 until the later of—

24 “(A) the end of the 3-year period begin-
25 ning on the due date of the assessment; or

1 “(B) in the case of a dispute between the
2 insured depository institution and the Corpora-
3 tion with respect to such assessment, the date
4 of a final determination of any such dispute.”.

5 (c) INCREASE IN FEES FOR LATE ASSESSMENT PAY-
6 MENTS.—Subsection (h) of section 18 of the Federal De-
7 posit Insurance Act (12 U.S.C. 1828(h)) is amended to
8 read as follows:

9 “(h) PENALTY FOR FAILURE TO TIMELY PAY AS-
10 SESSMENTS.—

11 “(1) IN GENERAL.—Subject to paragraph (3),
12 any insured depository institution which fails or re-
13 fuses to pay any assessment shall be subject to a
14 penalty in an amount not more than 1 percent of
15 the amount of the assessment due for each day that
16 such violation continues.

17 “(2) EXCEPTION IN CASE OF DISPUTE.—Para-
18 graph (1) shall not apply if—

19 “(A) the failure to pay an assessment is
20 due to a dispute between the insured depository
21 institution and the Corporation over the
22 amount of such assessment; and

23 “(B) the insured depository institution de-
24 posits security satisfactory to the Corporation

1 for payment upon final determination of the
2 issue.

3 “(3) SPECIAL RULE FOR SMALL ASSESSMENT
4 AMOUNTS.—If the amount of the assessment which
5 an insured depository institution fails or refuses to
6 pay is less than \$10,000 at the time of such failure
7 or refusal, the amount of any penalty to which such
8 institution is subject under paragraph (1) shall not
9 exceed \$100 for each day that such violation con-
10 tinues.

11 “(4) AUTHORITY TO MODIFY OR REMIT PEN-
12 ALTY.—The Corporation, in the sole discretion of
13 the Corporation, may compromise, modify or remit
14 any penalty which the Corporation may assess or
15 has already assessed under paragraph (1) upon a
16 finding that good cause prevented the timely pay-
17 ment of an assessment.”.

18 (d) ASSESSMENTS FOR LIFELINE ACCOUNTS.—

19 (1) IN GENERAL.—Section 232 of the Federal
20 Deposit Insurance Corporation Improvement Act of
21 1991 (12 U.S.C. 1834) is amended by striking sub-
22 section (c).

23 (2) CLARIFICATION OF RATE APPLICABLE TO
24 DEPOSITS ATTRIBUTABLE TO LIFELINE AC-
25 COUNTS.—Section 7(b)(2)(H) of the Federal Deposit

1 Insurance Act (12 U.S.C. 1817(b)(2)(H)) is amend-
2 ed by striking “at a rate determined in accordance
3 with such Act” and inserting “at $\frac{1}{2}$ the assessment
4 rate otherwise applicable for such insured depository
5 institution”.

6 (3) REGULATIONS.—Section 232(a)(1) of the
7 Federal Deposit Insurance Corporation Improvement
8 Act of 1991 (12 U.S.C. 1834(a)(1)) is amended by
9 striking “Board of Governors of the Federal Reserve
10 System, and the”.

11 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

12 (1) Paragraph (3) of section 7(a) of the Fed-
13 eral Deposit Insurance Act (12 U.S.C. 1817(a)(3))
14 is amended by striking the 3d sentence and inserting
15 the following: “Such reports of condition shall be the
16 basis for the certified statements to be filed pursu-
17 ant to subsection (c).”.

18 (2) Subparagraphs (B)(ii) and (C) of section
19 7(b)(1) of the Federal Deposit Insurance Act (12
20 U.S.C. 1817(b)(1)) are each amended by striking
21 “semiannual” where such term appears in each such
22 subparagraph.

23 (3) Section 7(b)(2) of the Federal Deposit In-
24 surance Act (12 U.S.C. 1817(b)(2)) is amended—

1 (A) by striking subparagraphs (E), (F),
2 and (G);

3 (B) in subparagraph (C), by striking
4 “semiannual”; and

5 (C) by redesignating subparagraph (H) (as
6 amended by subsection (e)(2) of this section) as
7 subparagraph (E).

8 (4) Section 7(b) of the Federal Deposit Insur-
9 ance Act (12 U.S.C. 1817(b)) is amended by strik-
10 ing paragraph (4) and redesignating paragraphs (5)
11 (as amended by subsection (b) of this section), (6),
12 and (7) as paragraphs (4), (5), and (6) respectively.

13 (5) Section 7(c) of the Federal Deposit Insur-
14 ance Act (12 U.S.C. 1817(c)) is amended—

15 (A) in paragraph (1)(A), by striking
16 “semiannual”;

17 (B) in paragraph (2)(A), by striking
18 “semiannual”; and

19 (C) in paragraph (3), by striking “semi-
20 annual period” and inserting “initial assess-
21 ment period”.

22 (6) Section 8(p) of the Federal Deposit Insur-
23 ance Act (12 U.S.C. 1818(p)) is amended by strik-
24 ing “semiannual”.

1 (7) Section 8(q) of the Federal Deposit Insur-
2 ance Act (12 U.S.C. 1818(q)) is amended by strik-
3 ing “semiannual period” and inserting “assessment
4 period”.

5 (8) Section 13(c)(4)(G)(ii)(II) of the Federal
6 Deposit Insurance Act (12 U.S.C.
7 1823(c)(4)(G)(ii)(II)) is amended by striking “semi-
8 annual period” and inserting “assessment period”.

9 (9) Section 232(a) of the Federal Deposit In-
10 surance Corporation Improvement Act of 1991 (12
11 U.S.C. 1834(a)) is amended—

12 (A) in the matter preceding subparagraph
13 (A) of paragraph (2), by striking “the Board
14 and”;

15 (B) in subparagraph (J) of paragraph (2),
16 by striking “the Board” and inserting “the
17 Corporation”;

18 (C) by striking subparagraph (A) of para-
19 graph (3) and inserting the following new sub-
20 paragraph:

21 “(A) CORPORATION.—The term ‘Corpora-
22 tion’ means the Federal Deposit Insurance Cor-
23 poration.”; and

1 (D) in subparagraph (C) of paragraph (3),
2 by striking “Board” and inserting “Corpora-
3 tion”.

4 (f) EFFECTIVE DATE.—This section and the amend-
5 ments made by this section shall take effect on the date
6 that the final regulations required under section
7 4009(a)(5) take effect.

8 **SEC. 4005. REPLACEMENT OF FIXED DESIGNATED RESERVE**
9 **RATIO WITH RESERVE RANGE.**

10 (a) IN GENERAL.—Section 7(b)(3) of the Federal
11 Deposit Insurance Act (12 U.S.C. 1817(b)(3)) is amended
12 to read as follows:

13 “(3) DESIGNATED RESERVE RATIO.—

14 “(A) ESTABLISHMENT.—

15 “(i) IN GENERAL.—The Board of Di-
16 rectors shall designate, by regulation after
17 notice and opportunity for comment, the
18 reserve ratio applicable with respect to the
19 Deposit Insurance Fund.

20 “(ii) NOT LESS THAN ANNUAL REDE-
21 TERMINATION.—A determination under
22 clause (i) shall be made by the Board of
23 Directors at least before the beginning of
24 each calendar year, for such calendar year,

1 and at such other times as the Board of
2 Directors may determine to be appropriate.

3 “(B) RANGE.—The reserve ratio des-
4 ignated by the Board of Directors for any
5 year—

6 “(i) may not exceed 1.4 percent of es-
7 timated insured deposits; and

8 “(ii) may not be less than 1.15 per-
9 cent of estimated insured deposits.

10 “(C) FACTORS.—In designating a reserve
11 ratio for any year, the Board of Directors
12 shall—

13 “(i) take into account the risk of
14 losses to the Deposit Insurance Fund in
15 such year and future years, including his-
16 toric experience and potential and esti-
17 mated losses from insured depository insti-
18 tutions;

19 “(ii) take into account economic con-
20 ditions generally affecting insured deposi-
21 tory institutions so as to allow the des-
22 ignated reserve ratio to increase during
23 more favorable economic conditions and to
24 decrease during less favorable economic
25 conditions, notwithstanding the increased

1 risks of loss that may exist during such
 2 less favorable conditions, as determined to
 3 be appropriate by the Board of Directors;

4 “(iii) seek to prevent sharp swings in
 5 the assessment rates for insured depository
 6 institutions; and

7 “(iv) take into account such other fac-
 8 tors as the Board of Directors may deter-
 9 mine to be appropriate, consistent with the
 10 requirements of this subparagraph.

11 “(D) PUBLICATION OF PROPOSED CHANGE
 12 IN RATIO.—In soliciting comment on any pro-
 13 posed change in the designated reserve ratio in
 14 accordance with subparagraph (A), the Board
 15 of Directors shall include in the published pro-
 16 posal a thorough analysis of the data and pro-
 17 jections on which the proposal is based.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 19 Section 3(y) of the Federal Deposit Insurance Act (12
 20 U.S.C. 1813(y)) is amended—

21 (1) by striking “(y) The term” and inserting(y)
 22 Definitions Relating to Deposit Insurance Fund.—

23 “(1) DEPOSIT INSURANCE FUND.—The term”;
 24 and

1 (2) by inserting after paragraph (1) (as so des-
 2 ignated by paragraph (1) of this subsection) the fol-
 3 lowing new paragraph:

4 “(2) DESIGNATED RESERVE RATIO.—The term
 5 ‘designated reserve ratio’ means the reserve ratio
 6 designated by the Board of Directors in accordance
 7 with section 7(b)(3).”.

8 (c) EFFECTIVE DATE.—This section and the amend-
 9 ments made by this section shall take effect on the date
 10 that the final regulations required under section
 11 4009(a)(1) take effect.

12 **SEC. 4006. REQUIREMENTS APPLICABLE TO THE RISK-**
 13 **BASED ASSESSMENT SYSTEM.**

14 Section 7(b)(1) of the Federal Deposit Insurance Act
 15 (12 U.S.C. 1817(b)(1)) is amended by adding at the end
 16 the following new subparagraphs:

17 “(E) INFORMATION CONCERNING RISK OF
 18 LOSS AND ECONOMIC CONDITIONS.—

19 “(i) SOURCES OF INFORMATION.—For
 20 purposes of determining risk of losses at
 21 insured depository institutions and eco-
 22 nomic conditions generally affecting depos-
 23 itory institutions, the Corporation shall col-
 24 lect information, as appropriate, from all
 25 sources the Board of Directors considers

1 appropriate, such as reports of condition,
2 inspection reports, and other information
3 from all Federal banking agencies, any in-
4 formation available from State bank super-
5 visors, State insurance and securities regu-
6 lators, the Securities and Exchange Com-
7 mission (including information described in
8 section 35), the Secretary of the Treasury,
9 the Commodity Futures Trading Commis-
10 sion, the Farm Credit Administration, the
11 Federal Trade Commission, any Federal
12 reserve bank or Federal home loan bank,
13 and other regulators of financial institu-
14 tions, and any information available from
15 credit rating entities, and other private
16 economic or business analysts.

17 “(ii) CONSULTATION WITH FEDERAL
18 BANKING AGENCIES.—

19 “(I) IN GENERAL.—Except as
20 provided in subclause (II), in assess-
21 ing the risk of loss to the Deposit In-
22 surance Fund with respect to any in-
23 sured depository institution, the Cor-
24 poration shall consult with the appro-

1 prate Federal banking agency of such
2 institution.

3 “(II) TREATMENT ON AGGREGATE BASIS.—In the case of insured
4 depository institutions that are well
5 capitalized (as defined in section 38)
6 and, in the most recent examination,
7 were found to be well managed, the
8 consultation under subclause (I) concerning the assessment of the risk of
9 loss posed by such institutions may be
10 made on an aggregate basis.

11 “(iii) RULE OF CONSTRUCTION.—No
12 provision of this paragraph shall be construed as providing any new authority for
13 the Corporation to require submission of
14 information by insured depository institutions to the Corporation.

15 “(F) MODIFICATIONS TO THE RISK-BASED
16 ASSESSMENT SYSTEM ALLOWED ONLY AFTER
17 NOTICE AND COMMENT.—In revising or modifying the risk-based assessment system at any
18 time after the date of the enactment of the
19 Federal Deposit Insurance Reform Act of 2005,
20 the Board of Directors may implement such re-

1 visions or modification in final form only after
2 notice and opportunity for comment.”.

3 **SEC. 4007. REFUNDS, DIVIDENDS, AND CREDITS FROM DE-**
4 **POSIT INSURANCE FUND.**

5 (a) IN GENERAL.—Subsection (e) of section 7 of the
6 Federal Deposit Insurance Act (12 U.S.C. 1817(e)) is
7 amended to read as follows:

8 “(e) REFUNDS, DIVIDENDS, AND CREDITS.—

9 “(1) REFUNDS OF OVERPAYMENTS.—In the
10 case of any payment of an assessment by an insured
11 depository institution in excess of the amount due to
12 the Corporation, the Corporation may—

13 “(A) refund the amount of the excess pay-
14 ment to the insured depository institution; or

15 “(B) credit such excess amount toward the
16 payment of subsequent assessments until such
17 credit is exhausted.

18 “(2) DIVIDENDS FROM EXCESS AMOUNTS IN
19 DEPOSIT INSURANCE FUND.—

20 “(A) RESERVE RATIO IN EXCESS OF 1.4
21 PERCENT OF ESTIMATED INSURED DEPOSITS.—

22 Whenever the reserve ratio of the Deposit In-
23 surance Fund exceeds 1.4 percent of estimated
24 insured deposits, the Corporation shall declare
25 the amount in the Fund in excess of the

1 amount required to maintain the reserve ratio
2 at 1.4 percent of estimated insured deposits, as
3 dividends to be paid to insured depository insti-
4 tutions.

5 “(B) RESERVE RATIO EQUAL TO OR IN EX-
6 CESS OF 1.35 PERCENT OF ESTIMATED INSURED
7 DEPOSITS AND NOT MORE THAN 1.4 PER-
8 CENT.—Whenever the reserve ratio of the De-
9 posit Insurance Fund equals or exceeds 1.35
10 percent of estimated insured deposits and is not
11 more than 1.4 percent of such deposits, the
12 Corporation shall declare the amount in the
13 Fund that is equal to 50 percent of the amount
14 in excess of the amount required to maintain
15 the reserve ratio at 1.35 percent of the esti-
16 mated insured deposits as dividends to be paid
17 to insured depository institutions.

18 “(C) BASIS FOR DISTRIBUTION OF DIVI-
19 DENDS.—

20 “(i) IN GENERAL.—Solely for the pur-
21 poses of dividend distribution under this
22 paragraph and credit distribution under
23 paragraph (3)(B), the Corporation shall
24 determine each insured depository institu-
25 tion’s relative contribution to the Deposit

1 Insurance Fund (or any predecessor de-
2 posit insurance fund) for calculating such
3 institution's share of any dividend or credit
4 declared under this paragraph or para-
5 graph (3)(B), taking into account the fac-
6 tors described in clause (ii).

7 “(ii) FACTORS FOR DISTRIBUTION.—
8 In implementing this paragraph and para-
9 graph (3)(B) in accordance with regula-
10 tions, the Corporation shall take into ac-
11 count the following factors:

12 “(I) The ratio of the assessment
13 base of an insured depository institu-
14 tion (including any predecessor) on
15 December 31, 1996, to the assessment
16 base of all eligible insured depository
17 institutions on that date.

18 “(II) The total amount of assess-
19 ments paid on or after January 1,
20 1997, by an insured depository insti-
21 tution (including any predecessor) to
22 the Deposit Insurance Fund (and any
23 predecessor deposit insurance fund).

24 “(III) That portion of assess-
25 ments paid by an insured depository

1 institution (including any predecessor)
2 that reflects higher levels of risk as-
3 sumed by such institution.

4 “(IV) Such other factors as the
5 Corporation may determine to be ap-
6 propriate.

7 “(D) NOTICE AND OPPORTUNITY FOR
8 COMMENT.—The Corporation shall prescribe by
9 regulation, after notice and opportunity for
10 comment, the method for the calculation, dec-
11 laration, and payment of dividends under this
12 paragraph.

13 “(3) CREDIT POOL.—

14 “(A) ONE-TIME CREDIT BASED ON TOTAL
15 ASSESSMENT BASE AT YEAR-END 1996.—

16 “(i) IN GENERAL.—Before the end of
17 the 270-day period beginning on the date
18 of the enactment of the Federal Deposit
19 Insurance Reform Act of 2005, the Board
20 of Directors shall, by regulation, provide
21 for a credit to each eligible insured deposi-
22 tory institution, based on the assessment
23 base of the institution (including any pred-
24 ecessor institution) on December 31, 1996,
25 as compared to the combined aggregate as-

1 assessment base of all eligible insured deposi-
2 tory institutions, taking into account such
3 factors as the Board of Directors may de-
4 termine to be appropriate.

5 “(ii) CREDIT LIMIT.—The aggregate
6 amount of credits available under clause (i)
7 to all eligible insured depository institu-
8 tions shall equal the amount that the Cor-
9 poration could collect if the Corporation
10 imposed an assessment of 12 basis points
11 on the combined assessment base of the
12 Bank Insurance Fund and the Savings As-
13 sociation Insurance Fund as of December
14 31, 2001.

15 “(iii) ELIGIBLE INSURED DEPOSITORY
16 INSTITUTION DEFINED.—For purposes of
17 this paragraph, the term ‘eligible insured
18 depository institution’ means any insured
19 depository institution that—

20 “(I) was in existence on Decem-
21 ber 31, 1996, and paid a deposit in-
22 surance assessment prior to that date;
23 or

1 “(II) is a successor to any in-
2 sured depository institution described
3 in subclause (I).

4 “(iv) APPLICATION OF CREDITS.—

5 “(I) IN GENERAL.—The amount
6 of a credit to any eligible insured de-
7 pository institution under this para-
8 graph shall be applied by the Corpora-
9 tion, subject to subsection (b)(3)(E),
10 to the assessments imposed on such
11 institution under subsection (b) that
12 become due for assessment periods be-
13 ginning after the effective date of reg-
14 ulations prescribed under clause (i).

15 “(II) REGULATIONS.—The regu-
16 lations prescribed under clause (i)
17 shall establish the qualifications and
18 procedures governing the application
19 of assessment credits pursuant to sub-
20 clause (I).

21 “(v) LIMITATION ON AMOUNT OF
22 CREDIT FOR CERTAIN DEPOSITORY INSTI-
23 TUTIONS.—In the case of an insured de-
24 pository institution that exhibits financial,
25 operational, or compliance weaknesses

1 ranging from moderately severe to unsatis-
2 factory, or is not adequately capitalized (as
3 defined in section 38) at the beginning of
4 an assessment period, the amount of any
5 credit allowed under this paragraph
6 against the assessment on that depository
7 institution for such period may not exceed
8 the amount calculated by applying to that
9 depository institution the average assess-
10 ment rate on all insured depository institu-
11 tions for such assessment period.

12 “(vi) PREDECESSOR DEFINED.—For
13 purposes of this paragraph, the term ‘pred-
14 ecessor’, when used with respect to any in-
15 sured depository institution, includes any
16 other insured depository institution ac-
17 quired by or merged with such insured de-
18 pository institution.

19 “(B) ON-GOING CREDIT POOL.—

20 “(i) IN GENERAL.—In addition to the
21 credit provided pursuant to subparagraph
22 (A) and subject to the limitation contained
23 in clause (v) of such subparagraph, the
24 Corporation shall, by regulation, establish
25 an on-going system of credits to be applied

1 against future assessments under sub-
2 section (b)(1) on the same basis as the
3 dividends provided under paragraph
4 (2)(C).

5 “(ii) LIMITATION ON CREDITS UNDER
6 CERTAIN CIRCUMSTANCES.—No credits
7 may be awarded by the Corporation under
8 this subparagraph during any period in
9 which—

10 “(I) the reserve ratio of the De-
11 posit Insurance Fund is less than the
12 designated reserve ratio of such Fund;
13 or

14 “(II) the reserve ratio of the
15 Fund is less than 1.25 percent of the
16 amount of estimated insured deposits.

17 “(iii) CRITERIA FOR DETERMINA-
18 TION.—In determining the amounts of any
19 assessment credits under this subpara-
20 graph, the Board of Directors shall take
21 into account the factors for designating the
22 reserve ratio under subsection (b)(3) and
23 the factors for setting assessments under
24 subsection (b)(2)(B).

25 “(4) ADMINISTRATIVE REVIEW.—

1 “(A) IN GENERAL.—The regulations pre-
2 scribed under paragraph (2)(D) and subpara-
3 graphs (A) and (B) of paragraph (3) shall in-
4 clude provisions allowing an insured depository
5 institution a reasonable opportunity to chal-
6 lenge administratively the amount of the credit
7 or dividend determined under paragraph (2) or
8 (3) for such institution.

9 “(B) ADMINISTRATIVE REVIEW.—Any re-
10 view under subparagraph (A) of any determina-
11 tion of the Corporation under paragraph (2) or
12 (3) shall be final and not subject to judicial re-
13 view.”.

14 (b) DEFINITION OF RESERVE RATIO.—Section 3(y)
15 of the Federal Deposit Insurance Act (12 U.S.C. 1813(y))
16 (as amended by section 4005(b) of this subtitle) is amend-
17 ed by adding at the end the following new paragraph:

18 “(3) RESERVE RATIO.—The term ‘reserve
19 ratio’, when used with regard to the Deposit Insur-
20 ance Fund other than in connection with a reference
21 to the designated reserve ratio, means the ratio of
22 the net worth of the Deposit Insurance Fund to the
23 value of the aggregate estimated insured deposits.”.

1 **SEC. 4008. DEPOSIT INSURANCE FUND RESTORATION**
2 **PLANS.**

3 Section 7(b)(3) of the Federal Deposit Insurance Act
4 (12 U.S.C. 1817(b)(3)) (as amended by section 4005(a)
5 of this subtitle) is amended by adding at the end the fol-
6 lowing new subparagraph:

7 “(E) DIF RESTORATION PLANS.—

8 “(i) IN GENERAL.—Whenever—

9 “(I) the Corporation projects
10 that the reserve ratio of the Deposit
11 Insurance Fund will, within 6 months
12 of such determination, fall below the
13 minimum amount specified in sub-
14 paragraph (B)(ii) for the designated
15 reserve ratio; or

16 “(II) the reserve ratio of the De-
17 posit Insurance Fund actually falls
18 below the minimum amount specified
19 in subparagraph (B)(ii) for the des-
20 ignated reserve ratio without any de-
21 termination under subclause (I) hav-
22 ing been made,

23 the Corporation shall establish and imple-
24 ment a Deposit Insurance Fund restora-
25 tion plan within 90 days that meets the re-
26 quirements of clause (ii) and such other

1 conditions as the Corporation determines
2 to be appropriate.

3 “(ii) REQUIREMENTS OF RESTORA-
4 TION PLAN.—A Deposit Insurance Fund
5 restoration plan meets the requirements of
6 this clause if the plan provides that the re-
7 serve ratio of the Fund will meet or exceed
8 the minimum amount specified in subpara-
9 graph (B)(ii) for the designated reserve
10 ratio before the end of the 10-year period
11 beginning upon the implementation of the
12 plan.

13 “(iii) RESTRICTION ON ASSESSMENT
14 CREDITS.—As part of any restoration plan
15 under this subparagraph, the Corporation
16 may elect to restrict the application of as-
17 sessment credits provided under subsection
18 (e)(3) for any period that the plan is in ef-
19 fect.

20 “(iv) LIMITATION ON RESTRICTION.—
21 Notwithstanding clause (iii), while any res-
22 toration plan under this subparagraph is in
23 effect, the Corporation shall apply credits
24 provided to an insured depository institu-
25 tion under subsection (e)(3) against any

1 assessment imposed on the institution for
2 any assessment period in an amount equal
3 to the lesser of—

4 “(I) the amount of the assess-
5 ment; or

6 “(II) the amount equal to 3 basis
7 points of the institution’s assessment
8 base.

9 “(v) TRANSPARENCY.—Not more than
10 30 days after the Corporation establishes
11 and implements a restoration plan under
12 clause (i), the Corporation shall publish in
13 the Federal Register a detailed analysis of
14 the factors considered and the basis for the
15 actions taken with regard to the plan.”.

16 **SEC. 4009. REGULATIONS REQUIRED.**

17 (a) IN GENERAL.—Not later than 270 days after the
18 date of the enactment of this Act, the Board of Directors
19 of the Federal Deposit Insurance Corporation shall pre-
20 scribe final regulations, after notice and opportunity for
21 comment—

22 (1) designating the reserve ratio for the Deposit
23 Insurance Fund in accordance with section 7(b)(3)
24 of the Federal Deposit Insurance Act (as amended
25 by section 4005 of this subtitle);

1 (2) implementing increases in deposit insurance
2 coverage in accordance with the amendments made
3 by section 4003 of this subtitle;

4 (3) implementing the dividend requirement
5 under section 7(e)(2) of the Federal Deposit Insur-
6 ance Act (as amended by section 4007 of this sub-
7 title);

8 (4) implementing the 1-time assessment credit
9 to certain insured depository institutions in accord-
10 ance with section 7(e)(3) of the Federal Deposit In-
11 surance Act, as amended by section 4007 of this
12 subtitle, including the qualifications and procedures
13 under which the Corporation would apply assess-
14 ment credits; and

15 (5) providing for assessments under section
16 7(b) of the Federal Deposit Insurance Act, as
17 amended by this subtitle.

18 (b) RULE OF CONSTRUCTION.—No provision of this
19 subtitle or any amendment made by this subtitle shall be
20 construed as affecting the authority of the Corporation to
21 set or collect deposit insurance assessments before the ef-
22 fective date of the final regulations prescribed under sub-
23 section (a).

1 **SEC. 4010. STUDIES OF FDIC STRUCTURE AND EXPENSES**
2 **AND CERTAIN ACTIVITIES AND FURTHER**
3 **POSSIBLE CHANGES TO DEPOSIT INSURANCE**
4 **SYSTEM.**

5 (a) STUDY BY COMPTROLLER GENERAL.—

6 (1) STUDY REQUIRED.—The Comptroller Gen-
7 eral shall conduct a study of the following issues:

8 (A) The efficiency and effectiveness of the
9 administration of the prompt corrective action
10 program under section 38 of the Federal De-
11 posit Insurance Act by the Federal banking
12 agencies (as defined in section 3 of such Act),
13 including the degree of effectiveness of such
14 agencies in identifying troubled depository insti-
15 tutions and taking effective action with respect
16 to such institutions, and the degree of accuracy
17 of the risk assessments made by the Corpora-
18 tion.

19 (B) The appropriateness of the organiza-
20 tional structure of the Federal Deposit Insur-
21 ance Corporation for the mission of the Cor-
22 poration taking into account—

23 (i) the current size and complexity of
24 the business of insured depository institu-
25 tions (as such term is defined in section 3
26 of the Federal Deposit Insurance Act);

- 1 (ii) the extent to which the organiza-
2 tional structure contributes to or reduces
3 operational inefficiencies that increase
4 operational costs; and
- 5 (iii) the effectiveness of internal con-
6 trols.

7 (2) REPORT TO THE CONGRESS.—The Comp-
8 troller General shall submit a report to the Congress
9 before the end of the 1-year period beginning on the
10 date of the enactment of this Act containing the
11 findings and conclusions of the Comptroller General
12 with respect to the study required under paragraph
13 (1) together with such recommendations for legisla-
14 tive or administrative action as the Comptroller Gen-
15 eral may determine to be appropriate.

16 (b) STUDY OF FURTHER POSSIBLE CHANGES TO DE-
17 POSIT INSURANCE SYSTEM.—

18 (1) STUDY REQUIRED.—The Board of Directors
19 of the Federal Deposit Insurance Corporation and
20 the National Credit Union Administration Board
21 shall each conduct a study of the following:

22 (A) The feasibility of establishing a vol-
23 untary deposit insurance system for deposits in
24 excess of the maximum amount of deposit in-
25 surance for any depositor and the potential ben-

1 efits and the potential adverse consequences
2 that may result from the establishment of any
3 such system.

4 (B) The feasibility of privatizing all deposit
5 insurance at insured depository institutions and
6 insured credit unions.

7 (2) REPORT.—Before the end of the 1-year pe-
8 riod beginning on the date of the enactment of this
9 Act, the Board of Directors of the Federal Deposit
10 Insurance Corporation and the National Credit
11 Union Administration Board shall each submit a re-
12 port to the Congress on the study required under
13 paragraph (1) containing the findings and conclu-
14 sions of the reporting agency together with such rec-
15 ommendations for legislative or administrative
16 changes as the agency may determine to be appro-
17 priate.

18 (c) STUDY REGARDING APPROPRIATE DEPOSIT BASE
19 IN DESIGNATING RESERVE RATIO.—

20 (1) STUDY REQUIRED.—The Federal Deposit
21 Insurance Corporation shall conduct a study of the
22 feasibility of using actual domestic deposits rather
23 than estimated insured deposits in calculating the
24 reserve ratio of the Deposit Insurance Fund and
25 designating a reserve ratio for such Fund.

1 (2) REPORT.—The Federal Deposit Insurance
2 Corporation shall submit a report to the Congress
3 before the end of the 1-year period beginning on the
4 date of the enactment of this Act containing the
5 findings and conclusions of the Corporation with re-
6 spect to the study required under paragraph (1) to-
7 gether with such recommendations for legislative or
8 administrative action as the Board of Directors of
9 the Corporation may determine to be appropriate.

10 (d) STUDY OF RESERVE METHODOLOGY AND AC-
11 COUNTING FOR LOSS.—

12 (1) STUDY REQUIRED.—The Federal Deposit
13 Insurance Corporation shall conduct a study of the
14 reserve methodology and loss accounting used by the
15 Corporation during the period beginning on January
16 1, 1992, and ending December 31, 2004, with re-
17 spect to insured depository institutions in a troubled
18 condition (as defined in the regulations prescribed
19 pursuant to section 32(f) of the Federal Deposit In-
20 surance Act). The Corporation shall obtain com-
21 ments on the design of the study from the Comp-
22 troller General.

23 (2) FACTORS TO BE INCLUDED.—In conducting
24 the study pursuant to paragraph (1), the Federal
25 Deposit Insurance Corporation shall—

1 (A) consider the overall effectiveness and
2 accuracy of the methodology used by the Cor-
3 poration for establishing and maintaining re-
4 serves and estimating and accounting for losses
5 at insured depository institutions, during the
6 period described in such paragraph;

7 (B) consider the appropriateness and reli-
8 ability of information and criteria used by the
9 Corporation in determining—

10 (i) whether an insured depository in-
11 stitution was in a troubled condition; and

12 (ii) the amount of any loss anticipated
13 at such institution;

14 (C) analyze the actual historical loss expe-
15 rience over the period described in paragraph
16 (1) and the causes of the exceptionally high
17 rate of losses experienced by the Corporation in
18 the final 3 years of that period; and

19 (D) rate the efforts of the Corporation to
20 reduce losses in such 3-year period to minimally
21 acceptable levels and to historical levels.

22 (3) REPORT REQUIRED.—The Board of Direc-
23 tors of the Federal Deposit Insurance Corporation
24 shall submit a report to the Congress before the end
25 of the 6-month period beginning on the date of the

1 enactment of this Act, containing the findings and
 2 conclusions of the Corporation with respect to the
 3 study required under paragraph (1), together with
 4 such recommendations for legislative or administra-
 5 tive action as the Board of Directors may determine
 6 to be appropriate. Before submitting the report to
 7 Congress, the Board of Directors shall provide a
 8 draft of the report to the Comptroller General for
 9 comment.

10 **SEC. 4011. BI-ANNUAL FDIC SURVEY AND REPORT ON IN-**
 11 **CREASING THE DEPOSIT BASE BY ENCOUR-**
 12 **AGING USE OF DEPOSITORY INSTITUTIONS**
 13 **BY THE UNBANKED.**

14 The Federal Deposit Insurance Act (12 U.S.C. 1811
 15 et seq.) is amended by adding at the end the following
 16 new section:

17 **“SEC. 49. BI-ANNUAL FDIC SURVEY AND REPORT ON EN-**
 18 **COURAGING USE OF DEPOSITORY INSTITU-**
 19 **TIONS BY THE UNBANKED.**

20 **“(a) SURVEY REQUIRED.—**

21 **“(1) IN GENERAL.—**The Corporation shall con-
 22 duct a bi-annual survey on efforts by insured deposi-
 23 tory institutions to bring those individuals and fami-
 24 lies who have rarely, if ever, held a checking ac-
 25 count, a savings account or other type of transaction

1 or check cashing account at an insured depository
2 institution (hereafter in this section referred to as
3 the ‘unbanked’) into the conventional finance sys-
4 tem.

5 “(2) FACTORS AND QUESTIONS TO CON-
6 sider.—In conducting the survey, the Corporation
7 shall take the following factors and questions into
8 account:

9 “(A) To what extent do insured depository
10 institutions promote financial education and fi-
11 nancial literacy outreach?

12 “(B) Which financial education efforts ap-
13 pear to be the most effective in bringing
14 ‘unbanked’ individuals and families into the
15 conventional finance system?

16 “(C) What efforts are insured institutions
17 making at converting ‘unbanked’ money order,
18 wire transfer, and international remittance cus-
19 tomers into conventional account holders?

20 “(D) What cultural, language and identi-
21 fication issues as well as transaction costs ap-
22 pear to most prevent ‘unbanked’ individuals
23 from establishing conventional accounts?

1 “(E) What is a fair estimate of the size
2 and worth of the ‘unbanked’ market in the
3 United States?”

4 “(b) REPORTS.—The Chairperson of the Board of
5 Directors shall submit a bi-annual report to the Com-
6 mittee on Financial Services of the House of Representa-
7 tives and the Committee on Banking, Housing, and Urban
8 Affairs of the Senate containing the Corporation’s findings
9 and conclusions with respect to the survey conducted pur-
10 suant to subsection (a), together with such recommenda-
11 tions for legislative or administrative action as the Chair-
12 person may determine to be appropriate.”.

13 **SEC. 4012. TECHNICAL AND CONFORMING AMENDMENTS**
14 **TO THE FEDERAL DEPOSIT INSURANCE ACT**
15 **RELATING TO THE MERGER OF THE BIF AND**
16 **SAIF.**

17 (a) IN GENERAL.—The Federal Deposit Insurance
18 Act (12 U.S.C. 1811 et seq.) is amended—

19 (1) in section 3 (12 U.S.C. 1813)—

20 (A) by striking subparagraph (B) of sub-
21 section (a)(1) and inserting the following new
22 subparagraph:

23 “(B) includes any former savings associa-
24 tion.”; and

1 (B) by striking paragraph (1) of sub-
2 section (y) (as so designated by section 4005(b)
3 of this subtitle) and inserting the following new
4 paragraph:

5 “(1) DEPOSIT INSURANCE FUND.—The term
6 ‘Deposit Insurance Fund’ means the Deposit Insur-
7 ance Fund established under section 11(a)(4).”;

8 (2) in section 5(b)(5) (12 U.S.C. 1815(b)(5)),
9 by striking “the Bank Insurance Fund or the Sav-
10 ings Association Insurance Fund,” and inserting
11 “the Deposit Insurance Fund,”;

12 (3) in section 5(c)(4), by striking “deposit in-
13 surance fund” and inserting “Deposit Insurance
14 Fund”;

15 (4) in section 5(d) (12 U.S.C. 1815(d)), by
16 striking paragraphs (2) and (3) (and any funds re-
17 sulting from the application of such paragraph (2)
18 prior to its repeal shall be deposited into the general
19 fund of the Deposit Insurance Fund);

20 (5) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

21 (A) in subparagraph (A), by striking “re-
22 serve ratios in the Bank Insurance Fund and
23 the Savings Association Insurance Fund as re-
24 quired by section 7” and inserting “the reserve
25 ratio of the Deposit Insurance Fund”;

1 (B) by striking subparagraph (B) and in-
2 serting the following:

3 “(2) **FEE CREDITED TO THE DEPOSIT INSUR-**
4 **ANCE FUND.**—The fee paid by the depository insti-
5 tution under paragraph (1) shall be credited to the
6 Deposit Insurance Fund.”;

7 (C) by striking “(1) **UNINSURED INSTI-**
8 **TUTIONS.**—”; and

9 (D) by redesignating subparagraphs (A)
10 and (C) as paragraphs (1) and (3), respectively,
11 and moving the left margins 2 ems to the left;
12 (6) in section 5(e) (12 U.S.C. 1815(e))—

13 (A) in paragraph (5)(A), by striking
14 “Bank Insurance Fund or the Savings Associa-
15 tion Insurance Fund” and inserting “Deposit
16 Insurance Fund”;

17 (B) by striking paragraph (6); and

18 (C) by redesignating paragraphs (7), (8),
19 and (9) as paragraphs (6), (7), and (8), respec-
20 tively;

21 (7) in section 6(5) (12 U.S.C. 1816(5)), by
22 striking “Bank Insurance Fund or the Savings As-
23 sociation Insurance Fund” and inserting “Deposit
24 Insurance Fund”;

25 (8) in section 7(b) (12 U.S.C. 1817(b))—

1 (A) in paragraph (1)(C), by striking “de-
2 posit insurance fund” each place that term ap-
3 pears and inserting “Deposit Insurance Fund”;

4 (B) in paragraph (1)(D), by striking “each
5 deposit insurance fund” and inserting “the De-
6 posit Insurance Fund”; and

7 (C) in paragraph (5) (as so redesignated
8 by section 4004(e)(4) of this subtitle)—

9 (i) by striking “any such assessment”
10 and inserting “any such assessment is nec-
11 essary”;

12 (ii) by striking subparagraph (B);

13 (iii) in subparagraph (A)—

14 (I) by striking “(A) is nec-
15 essary—”;

16 (II) by striking “Bank Insurance
17 Fund members” and inserting “in-
18 sured depository institutions”; and

19 (III) by redesignating clauses (i),
20 (ii), and (iii) as subparagraphs (A),
21 (B), and (C), respectively, and moving
22 the margins 2 ems to the left; and

23 (iv) in subparagraph (C) (as so red-
24 igned)—

1 (I) by inserting “that” before
2 “the Corporation”; and

3 (II) by striking “; and” and in-
4 serting a period;

5 (9) in section 7(j)(7)(F) (12 U.S.C.
6 1817(j)(7)(F)), by striking “Bank Insurance Fund
7 or the Savings Association Insurance Fund” and in-
8 serting “Deposit Insurance Fund”;

9 (10) in section 8(t)(2)(C) (12 U.S.C.
10 1818(t)(2)(C)), by striking “deposit insurance fund”
11 and inserting “Deposit Insurance Fund”;

12 (11) in section 11 (12 U.S.C. 1821)—

13 (A) by striking “deposit insurance fund”
14 each place that term appears and inserting
15 “Deposit Insurance Fund”;

16 (B) by striking paragraph (4) of sub-
17 section (a) and inserting the following new
18 paragraph:

19 “(4) DEPOSIT INSURANCE FUND.—

20 “(A) ESTABLISHMENT.—There is estab-
21 lished the Deposit Insurance Fund, which the
22 Corporation shall—

23 “(i) maintain and administer;

1 “(ii) use to carry out its insurance
2 purposes, in the manner provided by this
3 subsection; and

4 “(iii) invest in accordance with section
5 13(a).

6 “(B) USES.—The Deposit Insurance Fund
7 shall be available to the Corporation for use
8 with respect to insured depository institutions
9 the deposits of which are insured by the De-
10 posit Insurance Fund.

11 “(C) LIMITATION ON USE.—Notwith-
12 standing any provision of law other than section
13 13(c)(4)(G), the Deposit Insurance Fund shall
14 not be used in any manner to benefit any share-
15 holder or affiliate (other than an insured depos-
16 itory institution that receives assistance in ac-
17 cordance with the provisions of this Act) of—

18 “(i) any insured depository institution
19 for which the Corporation has been ap-
20 pointed conservator or receiver, in connec-
21 tion with any type of resolution by the
22 Corporation;

23 “(ii) any other insured depository in-
24 stitution in default or in danger of default,

1 in connection with any type of resolution
2 by the Corporation; or

3 “(iii) any insured depository institu-
4 tion, in connection with the provision of as-
5 sistance under this section or section 13
6 with respect to such institution, except
7 that this clause shall not prohibit any as-
8 sistance to any insured depository institu-
9 tion that is not in default, or that is not
10 in danger of default, that is acquiring (as
11 defined in section 13(f)(8)(B)) another in-
12 sured depository institution.

13 “(D) DEPOSITS.—All amounts assessed
14 against insured depository institutions by the
15 Corporation shall be deposited into the Deposit
16 Insurance Fund.”;

17 (C) by striking paragraphs (5), (6), and
18 (7) of subsection (a); and

19 (D) by redesignating paragraph (8) of sub-
20 section (a) as paragraph (5);

21 (12) in section 11(f)(1) (12 U.S.C. 1821(f)(1)),
22 by striking “, except that—” and all that follows
23 through the end of the paragraph and inserting a
24 period;

1 (13) in section 11(i)(3) (12 U.S.C.
2 1821(i)(3))—

3 (A) by striking subparagraph (B);

4 (B) by redesignating subparagraph (C) as
5 subparagraph (B); and

6 (C) in subparagraph (B) (as so redesign-
7 nated), by striking “subparagraphs (A) and
8 (B)” and inserting “subparagraph (A)”;

9 (14) in section 11(p)(2)(B) (12 U.S.C.
10 1821(p)(2)(B)), by striking “institution, any” and
11 inserting “institution, the”;

12 (15) in section 11A(a) (12 U.S.C. 1821a(a))—

13 (A) in paragraph (2), by striking “**LIABIL-**
14 **ITIES.—**” and all that follows through “Ex-
15 cept” and inserting “**LIABILITIES.—**Except”;

16 (B) by striking paragraph (2)(B); and

17 (C) in paragraph (3), by striking “the
18 Bank Insurance Fund, the Savings Association
19 Insurance Fund,” and inserting “the Deposit
20 Insurance Fund”;

21 (16) in section 11A(b) (12 U.S.C. 1821a(b)),
22 by striking paragraph (4);

23 (17) in section 11A(f) (12 U.S.C. 1821a(f)), by
24 striking “Savings Association Insurance Fund” and
25 inserting “Deposit Insurance Fund”;

1 (18) in section 12(f)(4)(E)(iv) (12 U.S.C.
2 1822(f)(4)(E)(iv)), by striking “Federal deposit in-
3 surance funds” and inserting “the Deposit Insur-
4 ance Fund (or any predecessor deposit insurance
5 fund)”;

6 (19) in section 13 (12 U.S.C. 1823)—

7 (A) by striking “deposit insurance fund”
8 each place that term appears and inserting
9 “Deposit Insurance Fund”;

10 (B) in subsection (a)(1), by striking “Bank
11 Insurance Fund, the Savings Association Insur-
12 ance Fund,” and inserting “Deposit Insurance
13 Fund”;

14 (C) in subsection (c)(4)(E)—

15 (i) in the subparagraph heading, by
16 striking “funds” and inserting “fund”; and

17 (ii) in clause (i), by striking “any in-
18 surance fund” and inserting “the Deposit
19 Insurance Fund”;

20 (D) in subsection (c)(4)(G)(ii)—

21 (i) by striking “appropriate insurance
22 fund” and inserting “Deposit Insurance
23 Fund”;

24 (ii) by striking “the members of the
25 insurance fund (of which such institution

1 is a member)” and inserting “insured de-
2 pository institutions”;

3 (iii) by striking “each member’s” and
4 inserting “each insured depository institu-
5 tion’s”; and

6 (iv) by striking “the member’s” each
7 place that term appears and inserting “the
8 institution’s”;

9 (E) in subsection (c), by striking para-
10 graph (11);

11 (F) in subsection (h), by striking “Bank
12 Insurance Fund” and inserting “Deposit Insur-
13 ance Fund”;

14 (G) in subsection (k)(4)(B)(i), by striking
15 “Savings Association Insurance Fund member”
16 and inserting “savings association”; and

17 (H) in subsection (k)(5)(A), by striking
18 “Savings Association Insurance Fund mem-
19 bers” and inserting “savings associations”;

20 (20) in section 14(a) (12 U.S.C. 1824(a)), in
21 the 5th sentence—

22 (A) by striking “Bank Insurance Fund or
23 the Savings Association Insurance Fund” and
24 inserting “Deposit Insurance Fund”; and

1 (B) by striking “each such fund” and in-
2 serting “the Deposit Insurance Fund”;

3 (21) in section 14(b) (12 U.S.C. 1824(b)), by
4 striking “Bank Insurance Fund or Savings Associa-
5 tion Insurance Fund” and inserting “Deposit Insur-
6 ance Fund”;

7 (22) in section 14(c) (12 U.S.C. 1824(c)), by
8 striking paragraph (3);

9 (23) in section 14(d) (12 U.S.C. 1824(d))—

10 (A) by striking “Bank Insurance Fund
11 member” each place that term appears and in-
12 serting “insured depository institution”;

13 (B) by striking “Bank Insurance Fund
14 members” each place that term appears and in-
15 serting “insured depository institutions”;

16 (C) by striking “Bank Insurance Fund”
17 each place that term appears (other than in
18 connection with a reference to a term amended
19 by subparagraph (A) or (B) of this paragraph)
20 and inserting “Deposit Insurance Fund”;

21 (D) by striking the subsection heading and
22 inserting the following:

23 “(d) BORROWING FOR THE DEPOSIT INSURANCE
24 FUND FROM INSURED DEPOSITORY INSTITUTIONS.—”;

1 (E) in paragraph (3), in the paragraph
2 heading, by striking “BIF” and inserting “THE
3 DEPOSIT INSURANCE FUND”; and

4 (F) in paragraph (5), in the paragraph
5 heading, by striking “BIF MEMBERS” and in-
6 serting “INSURED DEPOSITORY INSTITUTIONS”;

7 (24) in section 14 (12 U.S.C. 1824), by adding
8 at the end the following new subsection:

9 “(e) BORROWING FOR THE DEPOSIT INSURANCE
10 FUND FROM FEDERAL HOME LOAN BANKS.—

11 “(1) IN GENERAL.—The Corporation may bor-
12 row from the Federal home loan banks, with the
13 concurrence of the Federal Housing Finance Board,
14 such funds as the Corporation considers necessary
15 for the use of the Deposit Insurance Fund.

16 “(2) TERMS AND CONDITIONS.—Any loan from
17 any Federal home loan bank under paragraph (1) to
18 the Deposit Insurance Fund shall—

19 “(A) bear a rate of interest of not less
20 than the current marginal cost of funds to that
21 bank, taking into account the maturities in-
22 volved;

23 “(B) be adequately secured, as determined
24 by the Federal Housing Finance Board;

1 “(C) be a direct liability of the Deposit In-
2 surance Fund; and

3 “(D) be subject to the limitations of sec-
4 tion 15(c).”;

5 (25) in section 15(c)(5) (12 U.S.C.
6 1825(c)(5))—

7 (A) by striking “the Bank Insurance Fund
8 or Savings Association Insurance Fund, respec-
9 tively” each place that term appears and insert-
10 ing “the Deposit Insurance Fund”; and

11 (B) in subparagraph (B), by striking “the
12 Bank Insurance Fund or the Savings Associa-
13 tion Insurance Fund, respectively” and insert-
14 ing “the Deposit Insurance Fund”;

15 (26) in section 17(a) (12 U.S.C. 1827(a))—

16 (A) in the subsection heading, by striking
17 “BIF, SAIF,” and inserting “THE DEPOSIT IN-
18 SURANCE FUND”; and

19 (B) in paragraph (1)—

20 (i) by striking “the Bank Insurance
21 Fund, the Savings Association Insurance
22 Fund,” each place that term appears and
23 inserting “the Deposit Insurance Fund”;
24 and

1 (ii) in subparagraph (D), by striking
2 “each insurance fund” and inserting “the
3 Deposit Insurance Fund”;

4 (27) in section 17(d) (12 U.S.C. 1827(d)), by
5 striking “, the Bank Insurance Fund, the Savings
6 Association Insurance Fund,” each place that term
7 appears and inserting “the Deposit Insurance
8 Fund”;

9 (28) in section 18(m)(3) (12 U.S.C.
10 1828(m)(3))—

11 (A) by striking “Savings Association In-
12 surance Fund” in the 1st sentence of subpara-
13 graph (A) and inserting “Deposit Insurance
14 Fund”;

15 (B) by striking “Savings Association In-
16 surance Fund member” in the last sentence of
17 subparagraph (A) and inserting “savings asso-
18 ciation”; and

19 (C) by striking “Savings Association Insur-
20 ance Fund or the Bank Insurance Fund” in
21 subparagraph (C) and inserting “Deposit Insur-
22 ance Fund”;

23 (29) in section 18(o) (12 U.S.C. 1828(o)), by
24 striking “deposit insurance funds” and “deposit in-

1 insurance fund” each place those terms appear and in-
2 serting “Deposit Insurance Fund”;

3 (30) in section 18(p) (12 U.S.C. 1828(p)), by
4 striking “deposit insurance funds” and inserting
5 “Deposit Insurance Fund”;

6 (31) in section 24 (12 U.S.C. 1831a)—

7 (A) in subsections (a)(1) and (d)(1)(A), by
8 striking “appropriate deposit insurance fund”
9 each place that term appears and inserting
10 “Deposit Insurance Fund”;

11 (B) in subsection (e)(2)(A), by striking
12 “risk to” and all that follows through the pe-
13 riod and inserting “risk to the Deposit Insur-
14 ance Fund.”; and

15 (C) in subsections (e)(2)(B)(ii) and
16 (f)(6)(B), by striking “the insurance fund of
17 which such bank is a member” each place that
18 term appears and inserting “the Deposit Insur-
19 ance Fund”;

20 (32) in section 28 (12 U.S.C. 1831e), by strik-
21 ing “affected deposit insurance fund” each place
22 that term appears and inserting “Deposit Insurance
23 Fund”;

24 (33) by striking section 31 (12 U.S.C. 1831h);

1 (34) in section 36(i)(3) (12 U.S.C.
2 1831m(i)(3)), by striking “affected deposit insur-
3 ance fund” and inserting “Deposit Insurance
4 Fund”;

5 (35) in section 37(a)(1)(C) (12 U.S.C.
6 1831n(a)(1)(C)), by striking “insurance funds” and
7 inserting “Deposit Insurance Fund”;

8 (36) in section 38 (12 U.S.C. 1831o), by strik-
9 ing “the deposit insurance fund” each place that
10 term appears and inserting “the Deposit Insurance
11 Fund”;

12 (37) in section 38(a) (12 U.S.C. 1831o(a)), in
13 the subsection heading, by striking “FUNDS” and in-
14 serting “FUND”;

15 (38) in section 38(k) (12 U.S.C. 1831o(k))—

16 (A) in paragraph (1), by striking “a de-
17 posit insurance fund” and inserting “the De-
18 posit Insurance Fund”;

19 (B) in paragraph (2), by striking “A de-
20 posit insurance fund” and inserting “The De-
21 posit Insurance Fund”; and

22 (C) in paragraphs (2)(A) and (3)(B), by
23 striking “the deposit insurance fund’s outlays”
24 each place that term appears and inserting “the
25 outlays of the Deposit Insurance Fund”; and

1 (39) in section 38(o) (12 U.S.C. 1831o(o))—

2 (A) by striking “**ASSOCIATIONS.—**” and
 3 all that follows through “Subsections (e)(2)”
 4 and inserting “**ASSOCIATIONS.—**Subsections
 5 (e)(2)”;

6 (B) by redesignating subparagraphs (A),
 7 (B), and (C) as paragraphs (1), (2), and (3),
 8 respectively, and moving the margins 2 ems to
 9 the left; and

10 (C) in paragraph (1) (as so redesignated),
 11 by redesignating clauses (i) and (ii) as subpara-
 12 graphs (A) and (B), respectively, and moving
 13 the margins 2 ems to the left.

14 (b) **EFFECTIVE DATE.**—This section and the amend-
 15 ments made by this section shall take effect on the first
 16 day of the first calendar quarter that begins after the end
 17 of the 90-day period beginning on the date of the enact-
 18 ment of this Act.

19 **SEC. 4013. OTHER TECHNICAL AND CONFORMING AMEND-**
 20 **MENTS RELATING TO THE MERGER OF THE**
 21 **BIF AND SAIF.**

22 (a) **SECTION 5136 OF THE REVISED STATUTES.**—
 23 The paragraph designated the “Eleventh” of section 5136
 24 of the Revised Statutes of the United States (12 U.S.C.
 25 24) is amended in the 5th sentence, by striking “affected

1 deposit insurance fund” and inserting “Deposit Insurance
2 Fund”.

3 (b) INVESTMENTS PROMOTING PUBLIC WELFARE;
4 LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d
5 undesignated paragraph of section 9 of the Federal Re-
6 serve Act (12 U.S.C. 338a) is amended in the 4th sen-
7 tence, by striking “affected deposit insurance fund” and
8 inserting “Deposit Insurance Fund”.

9 (c) ADVANCES TO CRITICALLY UNDERCAPITALIZED
10 DEPOSITORY INSTITUTIONS.—Section 10B(b)(3)(A)(ii) of
11 the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is
12 amended by striking “any deposit insurance fund in” and
13 inserting “the Deposit Insurance Fund of”.

14 (d) AMENDMENTS TO THE BALANCED BUDGET AND
15 EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section
16 255(g)(1)(A) of the Balanced Budget and Emergency
17 Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is
18 amended—

19 (1) by striking “Bank Insurance Fund” and in-
20 serting “Deposit Insurance Fund”; and

21 (2) by striking “Federal Deposit Insurance Cor-
22 poration, Savings Association Insurance Fund (51-
23 4066-0-3-373);”.

1 (e) AMENDMENTS TO THE FEDERAL HOME LOAN
2 BANK ACT.—The Federal Home Loan Bank Act (12
3 U.S.C. 1421 et seq.) is amended—

4 (1) in section 11(k) (12 U.S.C. 1431(k))—

5 (A) in the subsection heading, by striking
6 “SAIF” and inserting “THE DEPOSIT INSUR-
7 ANCE FUND”; and

8 (B) by striking “Savings Association In-
9 surance Fund” each place such term appears
10 and inserting “Deposit Insurance Fund”;

11 (2) in section 21 (12 U.S.C. 1441)—

12 (A) in subsection (f)(2), by striking “, ex-
13 cept that” and all that follows through the end
14 of the paragraph and inserting a period; and

15 (B) in subsection (k), by striking para-
16 graph (4);

17 (3) in section 21A(b)(4)(B) (12 U.S.C.
18 1441a(b)(4)(B)), by striking “affected deposit insur-
19 ance fund” and inserting “Deposit Insurance
20 Fund”;

21 (4) in section 21A(b)(6)(B) (12 U.S.C.
22 1441a(b)(6)(B))—

23 (A) in the subparagraph heading, by strik-
24 ing “SAIF-INSURED BANKS” and inserting
25 “CHARTER CONVERSIONS”; and

1 (B) by striking “Savings Association In-
2 surance Fund member” and inserting “savings
3 association”;

4 (5) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C.
5 1441a(b)(10)(A)(iv)(II)), by striking “Savings Asso-
6 ciation Insurance Fund” and inserting “Deposit In-
7 surance Fund”;

8 (6) in section 21A(n)(6)(E)(iv) (12 U.S.C.
9 1441(n)(6)(E)(iv)), by striking “Federal deposit in-
10 surance funds” and inserting “the Deposit Insur-
11 ance Fund”;

12 (7) in section 21B(e) (12 U.S.C. 1441b(e))—

13 (A) in paragraph (5), by inserting “as of
14 the date of funding” after “Savings Association
15 Insurance Fund members” each place that term
16 appears; and

17 (B) by striking paragraphs (7) and (8);
18 and

19 (8) in section 21B(k) (12 U.S.C. 1441b(k))—

20 (A) by inserting before the colon “, the fol-
21 lowing definitions shall apply”;

22 (B) by striking paragraph (8); and

23 (C) by redesignating paragraphs (9) and
24 (10) as paragraphs (8) and (9), respectively.

1 (f) AMENDMENTS TO THE HOME OWNERS’ LOAN
2 ACT.—The Home Owners’ Loan Act (12 U.S.C. 1461 et
3 seq.) is amended—

4 (1) in section 5 (12 U.S.C. 1464)—

5 (A) in subsection (c)(5)(A), by striking
6 “that is a member of the Bank Insurance
7 Fund”;

8 (B) in subsection (c)(6), by striking “As
9 used in this subsection—” and inserting “For
10 purposes of this subsection, the following defini-
11 tions shall apply.”;

12 (C) in subsection (o)(1), by striking “that
13 is a Bank Insurance Fund member”;

14 (D) in subsection (o)(2)(A), by striking “a
15 Bank Insurance Fund member until such time
16 as it changes its status to a Savings Association
17 Insurance Fund member” and inserting “in-
18 sured by the Deposit Insurance Fund”;

19 (E) in subsection (t)(5)(D)(iii)(II), by
20 striking “affected deposit insurance fund” and
21 inserting “Deposit Insurance Fund”;

22 (F) in subsection (t)(7)(C)(i)(I), by strik-
23 ing “affected deposit insurance fund” and in-
24 serting “Deposit Insurance Fund”; and

1 (G) in subsection (v)(2)(A)(i), by striking
2 “the Savings Association Insurance Fund” and
3 inserting “or the Deposit Insurance Fund”; and
4 (2) in section 10 (12 U.S.C. 1467a)—

5 (A) in subsection (c)(6)(D), by striking
6 “this title” and inserting “this Act”;

7 (B) in subsection (e)(1)(B), by striking
8 “Savings Association Insurance Fund or Bank
9 Insurance Fund” and inserting “Deposit Insur-
10 ance Fund”;

11 (C) in subsection (e)(2), by striking “Sav-
12 ings Association Insurance Fund or the Bank
13 Insurance Fund” and inserting “Deposit Insur-
14 ance Fund”;

15 (D) in subsection (e)(4)(B), by striking
16 “subsection (1)” and inserting “subsection (l)”;

17 (E) in subsection (g)(3)(A), by striking
18 “(5) of this section” and inserting “(5) of this
19 subsection”;

20 (F) in subsection (i), by redesignating
21 paragraph (5) as paragraph (4);

22 (G) in subsection (m)(3), by striking sub-
23 paragraph (E) and by redesignating subpara-
24 graphs (F), (G), and (H) as subparagraphs
25 (E), (F), and (G), respectively;

1 (H) in subsection (m)(7)(A), by striking
2 “during period” and inserting “during the pe-
3 riod”; and

4 (I) in subsection (o)(3)(D), by striking
5 “sections 5(s) and (t) of this Act” and inserting
6 “subsections (s) and (t) of section 5”.

7 (g) AMENDMENTS TO THE NATIONAL HOUSING
8 ACT.—The National Housing Act (12 U.S.C. 1701 et
9 seq.) is amended—

10 (1) in section 317(b)(1)(B) (12 U.S.C.
11 1723i(b)(1)(B)), by striking “Bank Insurance Fund
12 for banks or through the Savings Association Insur-
13 ance Fund for savings associations” and inserting
14 “Deposit Insurance Fund”; and

15 (2) in section 536(b)(1)(B)(ii) (12 U.S.C.
16 1735f–14(b)(1)(B)(ii)), by striking “Bank Insurance
17 Fund for banks and through the Savings Association
18 Insurance Fund for savings associations” and insert-
19 ing “Deposit Insurance Fund”.

20 (h) AMENDMENTS TO THE FINANCIAL INSTITUTIONS
21 REFORM, RECOVERY, AND ENFORCEMENT ACT OF
22 1989.—The Financial Institutions Reform, Recovery, and
23 Enforcement Act of 1989 (12 U.S.C. 1811 note) is
24 amended—

1 (1) in section 951(b)(3)(B) (12 U.S.C.
2 1833a(b)(3)(B)), by inserting “and after the merger
3 of such funds, the Deposit Insurance Fund,” after
4 “the Savings Association Insurance Fund,”; and

5 (2) in section 1112(c)(1)(B) (12 U.S.C.
6 3341(c)(1)(B)), by striking “Bank Insurance Fund,
7 the Savings Association Insurance Fund,” and in-
8 serting “Deposit Insurance Fund”.

9 (i) AMENDMENT TO THE BANK HOLDING COMPANY
10 ACT OF 1956.—The Bank Holding Company Act of 1956
11 (12 U.S.C. 1841 et seq.) is amended—

12 (1) in section 2(j)(2) (12 U.S.C. 1841(j)(2)), by
13 striking “Savings Association Insurance Fund” and
14 inserting “Deposit Insurance Fund”; and

15 (2) in section 3(d)(1)(D)(iii) (12 U.S.C.
16 1842(d)(1)(D)(iii)), by striking “appropriate deposit
17 insurance fund” and inserting “Deposit Insurance
18 Fund”.

19 (j) AMENDMENTS TO THE GRAMM-LEACH-BLILEY
20 ACT.—Section 114 of the Gramm-Leach-Bliley Act (12
21 U.S.C. 1828a) is amended by striking “any Federal de-
22 posit insurance fund” in subsection (a)(1)(B), paragraphs
23 (2)(B) and (4)(B) of subsection (b), and subsection
24 (c)(1)(B), each place that term appears and inserting “the
25 Deposit Insurance Fund”.

1 (k) EFFECTIVE DATE.—This section and the amend-
2 ments made by this section shall take effect on the first
3 day of the first calendar quarter that begins after the end
4 of the 90-day period beginning on the date of the enact-
5 ment of this Act.

6 **Subtitle B—FHA Asset Disposition**

7 **SEC. 4101. SHORT TITLE.**

8 This subtitle may be cited as the “FHA Asset Dis-
9 position Act of 2005”.

10 **SEC. 4102. DEFINITIONS.**

11 For purposes of this subtitle, the following definitions
12 shall apply:

13 (1) The term “affordability requirements”
14 means any requirements or restrictions imposed by
15 the Secretary, at the time of sale, on a multifamily
16 real property or a multifamily loan, such as use re-
17 strictions, rent restrictions, and rehabilitation re-
18 quirements.

19 (2) The term “discount sale” means the sale of
20 a multifamily real property in a transaction, such as
21 a negotiated sale, in which the sale price is lower
22 than the property market value and is set outside of
23 a competitive bidding process that has no afford-
24 ability requirements.

1 (3) The term “discount loan sale” means the
2 sale of a multifamily loan in a transaction, such as
3 a negotiated sale, in which the sale price is lower
4 than the loan market value and is set outside of a
5 competitive bidding process that has no affordability
6 requirements.

7 (4) The term “loan market value” means the
8 value of a multifamily loan, without taking into ac-
9 count any affordability requirements.

10 (5) The term “multifamily real property”
11 means any rental or cooperative housing project of
12 5 or more units owned by the Secretary that prior
13 to acquisition by the Secretary was security for a
14 loan or loans insured under title II of the National
15 Housing Act.

16 (6) The term “multifamily loan” means a loan
17 held by the Secretary and secured by a multifamily
18 rental or cooperative housing project of 5 or more
19 units that was formerly insured under title II of the
20 National Housing Act.

21 (7) The term “property market value” means
22 the value of a multifamily real property for its cur-
23 rent use, without taking into account any afford-
24 ability requirements.

1 (8) The term “Secretary” means the Secretary
2 of Housing and Urban Development.

3 **SEC. 4103. APPROPRIATED FUNDS REQUIREMENT FOR**
4 **BELOW MARKET SALES.**

5 (a) DISCOUNT SALES.—Notwithstanding any other
6 provision of law, except for affordability requirements for
7 the elderly and disabled required by statute, disposition
8 by the Secretary of a multifamily real property during fis-
9 cal years 2006 through 2010 through a discount sale
10 under sections 207(l) or 246 of the National Housing Act
11 (12 U.S.C. 1713(l), 1715z-11), section 203 of the Housing
12 and Community Development Amendments of 1978 (12
13 U.S.C. 1701z-11), or section 204 of the Departments of
14 Veterans Affairs and Housing and Urban Development,
15 and Independent Agencies Appropriations Act, 1997 (12
16 U.S.C. 1715z-11a), shall be subject to the availability of
17 appropriations to the extent that the property value ex-
18 ceeds the sale proceeds. If the multifamily real property
19 is sold, during such fiscal years, for an amount equal to
20 or greater than the property market value then the trans-
21 action is not subject to the availability of appropriations.

22 (b) DISCOUNT LOAN SALES.—Notwithstanding any
23 other provision of law and in accordance with the Federal
24 Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), a dis-
25 count loan sale during fiscal years 2006 through 2010

1 under section 207(k) of the National Housing Act (12
2 U.S.C. 1713(k)), section 203(k) of the Housing and Com-
3 munity Development Amendments of 1978 (12 U.S.C.
4 1701z-11(k)), or section 204(a) of the Departments of
5 Veterans Affairs and Housing and Urban Development,
6 and Independent Agencies Appropriations Act, 1997 (12
7 U.S.C. 1715z-11a(a)), shall be subject to the availability
8 of appropriations to the extent that the loan value exceeds
9 the sale proceeds. If the multifamily loan is sold, during
10 such fiscal years, for an amount equal to or greater than
11 the loan market value then the transaction is not subject
12 to the availability of appropriations.

13 (c) APPLICABILITY.—This section shall not apply to
14 any transaction that formally commences within one year
15 prior to the enactment of this section.

16 **SEC. 4104. UP-FRONT GRANTS.**

17 (a) 1997 Act.—Section 204(a) of the Departments
18 of Veterans Affairs and Housing And Urban Development,
19 and Independent Agencies Appropriations Act, 1997 (12
20 U.S.C. 1715z-11a(a))) is amended by adding at the end
21 the following new sentence: “A grant provided under this
22 subsection during fiscal years 2006 through 2010 shall be
23 available only to the extent that appropriations are made
24 in advance for such purposes and shall not be derived from
25 the General Insurance Fund.”.

(b) 1978 Act.—Section 203(f)(4) of the Housing and Community Development Amendments of 1978 (12 USC 1701z-11(f)(4)) is amended by adding at the end the following new sentence: “This paragraph shall be effective during fiscal years 2006 through 2010 only to the extent that such budget authority is made available for use under this paragraph in advance in appropriation Acts.”.

(c) APPLICABILITY.—The amendments made by this section shall not apply to any transaction that formally commences within one year prior to the enactment of this section.

TITLE V—COMMITTEE ON JUDICIARY

SEC. 5001. TABLE OF CONTENTS.

TITLE V—COMMITTEE ON JUDICIARY

Sec. 5001. Table of contents.

Subtitle A—Visa Fees

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Subtitle B—Circuit and District Judgeships

Sec. 5201. Short title.

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Sec. 5203. District judges for the district courts.

Sec. 5204. Establishment of Article III court in the Virgin Islands.

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Subtitle D—Ninth Circuit Reorganization

- Sec. 5401. Short title.
- Sec. 5402. Definitions.
- Sec. 5403. Number and composition of circuits.
- Sec. 5404. Number of circuit judges.
- Sec. 5405. Places of circuit court.
- Sec. 5406. Assignment of circuit judges.
- Sec. 5407. Election of assignment by senior judges.
- Sec. 5408. Seniority of judges.
- Sec. 5409. Application to cases.
- Sec. 5410. Temporary assignment of circuit judges among circuits.
- Sec. 5411. Temporary assignment of district judges among circuits.
- Sec. 5412. Administration.
- Sec. 5413. Effective date.

Subtitle E—Authorization of Appropriations

- Sec. 5501. Authorization of appropriations.

1 Subtitle A—Visa Fees

2 SEC. 5101. FEES WITH RESPECT TO IMMIGRATION SERV-
3 ICES FOR INTRACOMPANY TRANSFEREES.

4 Section 214(c) of the Immigration and Nationality
 5 Act (8 U.S.C. 1184(c)) is amended by adding at the end
 6 the following:

7 “(15)(A) The Secretary of State shall impose a fee
 8 on an employer when an alien files an application abroad
 9 for a visa authorizing initial admission to the United
 10 States as a nonimmigrant described in section
 11 101(a)(15)(L) in order to be employed by the employer,
 12 if the alien is covered under a blanket petition described
 13 in paragraph (2)(A).

14 “(B) The Secretary of Homeland Security shall im-
 15 pose a fee on an employer filing a petition under para-
 16 graph (1) initially to grant an alien nonimmigrant status

1 described in section 101(a)(15)(L) or to extend for the
2 first time the stay of an alien having such status.

3 “(C) The amount of the fee imposed under subpara-
4 graph (A) or (B) shall be \$1,500.

5 “(D) The fees imposed under subparagraphs (A) and
6 (B) shall only apply to principal aliens and not to spouses
7 or children who are accompanying or following to join such
8 principal aliens.

9 “(E) Fees collected under this paragraph shall be de-
10 posited as offsetting receipts in the Treasury, and shall
11 not be available for expenditure until appropriated.

12 “(F)(i) An employer may not require an alien who
13 is the beneficiary of the visa or petition for which a fee
14 is imposed under this paragraph to reimburse, or other-
15 wise compensate, the employer for part or all of the cost
16 of such fee.

17 “(ii) Section 274A(g)(2) shall apply to a violation of
18 clause (i) in the same manner as it applies to a violation
19 of section 274A(g)(1).”.

20 **Subtitle B—Circuit and District** 21 **Judgeships**

22 **SEC. 5201. SHORT TITLE.**

23 This subtitle may be cited as the “Federal Judgeship
24 Act of 2005”.

1 **SEC. 5202. CIRCUIT JUDGES FOR THE CIRCUIT COURTS OF**
2 **APPEALS.**

3 (a) IN GENERAL.—The President shall appoint, by
4 and with the advice and consent of the Senate—

5 (1) 1 additional circuit judge for the first cir-
6 cuit court of appeals;

7 (2) 2 additional circuit judges for the second
8 circuit court of appeals;

9 (3) 1 additional circuit judge for the sixth cir-
10 cuit court of appeals; and

11 (4) 5 additional circuit judges for the ninth cir-
12 cuit court of appeals, whose official duty station
13 shall be in California.

14 (b) TEMPORARY JUDGESHIPS.—

15 (1) IN GENERAL.—The President shall appoint,
16 by and with the advice and consent of the Senate—

17 (A) 1 additional circuit judge for the
18 eighth circuit court of appeals; and

19 (B) 2 additional circuit judges for the
20 ninth circuit court of appeals, whose official
21 duty station shall be in California.

22 (2) VACANCIES.—

23 (A) EIGHTH CIRCUIT.—The first vacancy
24 in the office of circuit judge in the eighth cir-
25 cuit court of appeals, occurring 10 years or
26 more after the confirmation date of the judge

1 named to fill the circuit judgeship created in
 2 that circuit by paragraph (1)(A) shall not be
 3 filled.

4 (B) NINTH CIRCUIT.—The first 2 vacan-
 5 cies in the office of circuit judge in the ninth
 6 circuit court of appeals, occurring 10 years or
 7 more after judges are first confirmed to fill
 8 both temporary circuit judgeships created by
 9 paragraph (1)(B) shall not be filled.

10 (c) TABLE OF JUDGESHIPS.—In order that the table
 11 contained in section 44 of title 28, United States Code,
 12 will, with respect to each judicial circuit, reflect the
 13 changes in the total number of permanent circuit judge-
 14 ships authorized under subsection (a) of this section, such
 15 table is amended to read as follows:

“Circuits	Number of Judges
District of Columbia	12
First	7
Second	15
Third	14
Fourth	15
Fifth	17
Sixth	17
Seventh	11
Eighth	11
Ninth	33
Tenth	12
Eleventh	12
Federal	12.”.

16 **SEC. 5203. DISTRICT JUDGES FOR THE DISTRICT COURTS.**

17 (a) IN GENERAL.—The President shall appoint, by
 18 and with the advice and consent of the Senate—

1 (1) 1 additional district judge for the northern
2 district of Alabama;

3 (2) 4 additional district judges for the district
4 of Arizona;

5 (3) 3 additional district judges for the northern
6 district of California;

7 (4) 4 additional district judges for the eastern
8 district of California;

9 (5) 4 additional district judges for the central
10 district of California;

11 (6) 1 additional district judge for the southern
12 district of California;

13 (7) 1 additional district judge for the district of
14 Colorado;

15 (8) 4 additional district judges for the middle
16 district of Florida;

17 (9) 3 additional district judges for the southern
18 district of Florida;

19 (10) 1 additional district judge for the district
20 of Idaho;

21 (11) 1 additional district judge for the northern
22 district of Illinois;

23 (12) 1 additional district judge for the southern
24 district of Indiana;

1 (13) 1 additional district judge for the western
2 district of Missouri;

3 (14) 1 additional district judge for the district
4 of Nebraska;

5 (15) 1 additional district judge for the district
6 of Nevada;

7 (16) 1 additional district judge for the district
8 of New Mexico;

9 (17) 3 additional district judges for the eastern
10 district of New York;

11 (18) 1 additional district judge for the western
12 district of New York;

13 (19) 1 additional district judge for the district
14 of Oregon;

15 (20) 1 additional district judge for the district
16 of South Carolina;

17 (21) 3 additional district judges for the south-
18 ern district of Texas;

19 (22) 2 additional district judges for the eastern
20 district of Virginia; and

21 (23) 1 additional district judge for the western
22 district of Washington.

23 (b) TEMPORARY JUDGESHIPS.—

24 (1) IN GENERAL.—The President shall appoint,
25 by and with the advice and consent of the Senate—

1 (A) 1 additional district judge for the mid-
2 dle district of Alabama;

3 (B) 1 additional district judge for the dis-
4 trict of Arizona;

5 (C) 1 additional district judge for the
6 northern district of California;

7 (D) 1 additional district judge for the dis-
8 trict of Colorado;

9 (E) 1 additional district judge for the mid-
10 dle district of Florida;

11 (F) 1 additional district judge for the
12 northern district of Iowa;

13 (G) 1 additional district judge for the dis-
14 trict of Minnesota;

15 (H) 1 additional district judge for the dis-
16 trict of New Jersey;

17 (I) 1 additional district judge for the dis-
18 trict of New Mexico;

19 (J) 1 additional district judge for the
20 southern district of Ohio;

21 (K) 1 additional district judge for the dis-
22 trict of Oregon; and

23 (L) 1 additional district judge for the dis-
24 trict of Utah.

1 (2) VACANCIES NOT FILLED.—The first va-
2 cancy in the office of district judge in each of the
3 judicial districts named in paragraph (1) occurring
4 10 years or more after the confirmation date of the
5 judge named to fill the district judgeship created in
6 that district by paragraph (1) shall not be filled.

7 (c) EXISTING JUDGESHIPS.—

8 (1) PERMANENT JUDGESHIPS.—The existing
9 judgeships for the district of Hawaii, the district of
10 Kansas, and the eastern district of Missouri author-
11 ized by section 203(c) of the Judicial Improvements
12 Act of 1990 (Public Law 101–650; 28 U.S.C. 133
13 note) shall, as of the effective date of this Act, be
14 authorized under section 133 of title 28, United
15 States Code, and the incumbents in those offices
16 shall hold the office under section 133 of title 28,
17 United States Code, as amended by this Act.

18 (2) EXTENSION OF TEMPORARY JUDGESHIP.—
19 Section 203(c) of the Judicial Improvements Act of
20 1990 (Public Law 101–650; 28 U.S.C. 133 note) is
21 amended in the fifth sentence (relating to the north-
22 ern district of Ohio) by striking “15 years” and in-
23 serting “20 years”.

24 (d) TABLE OF JUDGESHIPS.—In order that the table
25 contained in section 133(a) of title 28, United States

- 1 Code, will, with respect to each judicial district, reflect the
 2 changes in the total number of permanent district judge-
 3 ships authorized under subsections (a) and (c) of this sec-
 4 tion, such table is amended to read as follows:

“Districts	Judges
“Alabama:	
“Northern	8
“Middle	3
“Southern	3
“Alaska	3
“Arizona	16
“Arkansas:	
“Eastern	5
“Western	3
“California:	
“Northern	17
“Eastern	10
“Central	31
“Southern	14
“Colorado	8
“Connecticut	8
“Delaware	4
“District of Columbia	15
“Florida:	
“Northern	4
“Middle	19
“Southern	20
“Georgia:	
“Northern	11
“Middle	4
“Southern	3
“Hawaii	4
“Idaho	3
“Illinois:	
“Northern	23
“Central	4
“Southern	4
“Indiana:	
“Northern	5
“Southern	6
“Iowa:	
“Northern	2
“Southern	3
“Kansas	6
“Kentucky:	
“Eastern	5
“Western	4
“Eastern and Western	1
“Louisiana:	
“Eastern	12

“Middle	3
“Western	7
“Maine	3
“Maryland	10
“Massachusetts	13
“Michigan:	
“Eastern	15
“Western	4
“Minnesota	7
“Mississippi:	
“Northern	3
“Southern	6
“Missouri:	
“Eastern	7
“Western	6
“Eastern and Western	2
“Montana	3
“Nebraska	4
“Nevada	8
“New Hampshire	3
“New Jersey	17
“New Mexico	7
“New York:	
“Northern	5
“Southern	28
“Eastern	18
“Western	5
“North Carolina:	
“Eastern	4
“Middle	4
“Western	4
“North Dakota	2
“Ohio:	
“Northern	11
“Southern	8
“Oklahoma:	
“Northern	3
“Eastern	1
“Western	6
“Northern, Eastern, and Western.	1
“Oregon	7
“Pennsylvania:	
“Eastern	22
“Middle	6
“Western	10
“Puerto Rico	7
“Rhode Island	3
“South Carolina	11
“South Dakota	3
“Tennessee:	
“Eastern	5
“Middle	4
“Western	5
“Texas:	
“Northern	12

“Southern	22
“Eastern	7
“Western	13
“Utah	5
“Vermont	2
“Virginia:	
“Eastern	13
“Western	4
“Washington:	
“Eastern	4
“Western	8
“West Virginia:	
“Northern	3
“Southern	5
“Wisconsin:	
“Eastern	5
“Western	2
“Wyoming	3.”.

1 **SEC. 5204. ESTABLISHMENT OF ARTICLE III COURT IN THE**
2 **VIRGIN ISLANDS.**

3 (a) ESTABLISHMENT OF JUDICIAL DISTRICT.—

4 (1) VIRGIN ISLANDS.—Chapter 5 of title 28,
5 United States Code, is amended by inserting after
6 section 126 the following new section:

7 **“§ 126A. Virgin Islands**

8 “The Virgin Islands constitutes 1 judicial district
9 comprising 2 divisions.

10 “(1) The Saint Croix Division comprises the Is-
11 land of Saint Croix and adjacent islands and cays.

12 “Court for the Saint Croix Division shall
13 be held at Christiansted.

14 “(2) The Saint Thomas and Saint John Divi-
15 sion comprises the Islands of Saint Thomas and
16 Saint John and adjacent islands and cays.

1 “Court for the Saint Thomas and Saint
2 John Division shall be held at Charlotte-
3 Amalie.”.

4 (2) TECHNICAL AND CONFORMING AMEND-
5 MENT.—The table of contents for chapter 5 of title
6 28, United States Code, is amended by inserting
7 after the item relating to section 126 the following:
 “126A. Virgin Islands.”.

8 (b) NUMBER OF JUDGES.—The table contained in
9 section 133(a) of title 28, United States Code, is amended
10 by inserting after the item relating to Vermont the fol-
11 lowing:

 “Virgin Islands 2”.

12 (c) BANKRUPTCY JUDGES.—The table contained in
13 section 152(a)(2) of title 28, United States Code, is
14 amended by inserting after the item relating to Vermont
15 the following:

 “Virgin Islands 0”.

16 (d) JUDICIAL CONFERENCES OF CIRCUITS.—Section
17 333 of title 28, United States Code, is amended in the
18 third sentence of the first undesignated paragraph—

19 (1) by striking “, the District Court of the Vir-
20 gin Islands,”; and

21 (2) by striking “to the conferences of their re-
22 spective circuits” and inserting “to the conference of
23 the ninth circuit”.

1 (e) JUDGES IN TERRITORIES AND POSSESSIONS.—

2 Section 373 of title 28, United States Code, is amended—

3 (1) in subsection (a), by striking “, the District
4 Court of the Northern Mariana Islands, or the Dis-
5 trict Court of the Virgin Islands” and inserting “or
6 the District Court of the Northern Mariana Is-
7 lands”; and

8 (2) in subsection (e), by striking “, the District
9 Court of the Northern Mariana Islands, or the Dis-
10 trict Court of the Virgin Islands” and inserting “or
11 the District Court of the Northern Mariana Is-
12 lands”.

13 (f) ANNUITIES FOR SURVIVORS OF CERTAIN JUDI-
14 CIAL OFFICIALS OF THE UNITED STATES.—Section
15 376(a) of title 28, United States Code, is amended—

16 (1) in paragraph (1)(B), by striking “, the Dis-
17 trict Court of the Northern Mariana Islands, or the
18 District Court of the Virgin Islands” and inserting
19 “or the District Court of the Northern Mariana Is-
20 lands”; and

21 (2) in paragraph (2)(B), by striking “, the Dis-
22 trict Court of the Northern Mariana Islands, or the
23 District Court of the Virgin Islands” and inserting
24 “or the District Court of the Northern Mariana Is-
25 lands”.

1 (g) AUTHORITY OF ATTORNEY GENERAL.—Section
2 526(a)(2) of title 28, United States Code, is amended by
3 striking “and of the district court of the Virgin Islands”.

4 (h) COURTS DEFINED.—Section 610 of title 28,
5 United States Code, is amended—

6 (1) by striking “the United States District
7 Court for the District of the Canal Zone,”; and

8 (2) by striking “the District Court of the Virgin
9 Islands,”.

10 (i) UNITED STATES MAGISTRATE JUDGES.—Section
11 631(a) of title 28, United States Code, is amended—

12 (1) in the first sentence, by striking “the Virgin
13 Islands, Guam,” and inserting “Guam”; and

14 (2) in the second sentence, by striking “the Vir-
15 gin Islands, Guam,” and inserting “Guam”.

16 (j) COURT REPORTERS.—Section 753(a) of title 28,
17 United States Code, is amended by striking “, the United
18 States District Court for the District of the Canal Zone,
19 the District Court of Guam, and the District Court of the
20 Virgin Islands” and inserting “and the District Court of
21 Guam”.

22 (k) FINAL DECISIONS OF DISTRICT COURTS.—Sec-
23 tion 1291 of title 28, United States Code, is amended by
24 striking “, the United States District Court for the Dis-
25 trict of the Canal Zone, the District Court of Guam, and

1 the District Court of the Virgin Islands,” and inserting
2 “and the District Court of Guam,”.

3 (l) INTERLOCUTORY DECISIONS.—Section 1292 of
4 title 28, United States Code, is amended—

5 (1) in subsection (a), by striking “, the United
6 States District Court for the District of the Canal
7 Zone, the District Court of Guam, and the District
8 Court of the Virgin Islands,” and inserting “and the
9 District Court of Guam,”; and

10 (2) in subsection (d)(4)(A), by striking “the
11 District Court of the Virgin Islands,”.

12 (m) JURISDICTION OF THE UNITED STATES COURT
13 OF APPEALS FOR THE FEDERAL CIRCUIT.—Section
14 1295(a) of title 28, United States Code, is amended in
15 paragraphs (1) and (2)—

16 (1) by striking “the United States District
17 Court for the District of the Canal Zone,”; and

18 (2) by striking “the District Court of the Virgin
19 Islands,”.

20 (n) UNITED STATES AS DEFENDANT.—Section
21 1346(b)(1) of title 28, United States Code, is amended
22 by striking “, together with the United States District
23 Court for the District of the Canal Zone and the District
24 Court of the Virgin Islands,”.

1 (o) ADEQUATE REPRESENTATION OF DEFEND-
2 ANTS.—Section 3006A(j) of title 18, United States Code,
3 is amended by striking “the District Court of the Virgin
4 Islands,”.

5 (p) SAVINGS PROVISIONS.—

6 (1) TENURE OF INCUMBENT JUDGES.—A judge
7 of the District Court of the Virgin Islands in office
8 on the effective date of this section shall continue in
9 office until the expiration of the term for which the
10 judge was appointed, or until the judge dies, resigns,
11 or is removed from office, whichever occurs first.
12 When a vacancy occurs on the court on or after the
13 effective date of this section, the President, in ac-
14 cordance with section 133(a) of title 28, United
15 States Code, shall appoint, by and with the advice
16 and consent of the Senate, a district judge for the
17 District of the Virgin Islands.

18 (2) RETIREMENT RIGHTS AND BENEFITS.—The
19 amendments made by this section shall not affect
20 the rights under sections 373 and 376 of title 28,
21 United States Code, of any judge of the District
22 Court of the Virgin Islands who retires on or before
23 the effective date of this section or who continues in
24 office after that date under paragraph (1) of this
25 subsection. Service as a judge of the District Court

1 of the Virgin Islands appointed under section 24 of
2 the Revised Organic Act of the Virgin Islands (48
3 U.S.C. 1614) shall be included in calculating service
4 under sections 371 and 372 of title 28, United
5 States Code, and shall not be counted for purposes
6 of section 373 of that title, if the judge is re-
7 appointed, after the effective date of this section,
8 under section 133(a) of title 28, United States Code,
9 as district judge for the District of the Virgin Is-
10 lands.

11 (q) AMENDMENTS TO REVISED ORGANIC ACT OF
12 THE VIRGIN ISLANDS.—

13 (1) REPEALS.—Sections 24, 25, 26, and 27 of
14 the Revised Organic Act of the Virgin Islands (48
15 U.S.C. 1614, 1615, 1616 and 1617) are repealed.

16 (2) RIGHTS AND PROHIBITIONS.—Section 3 of
17 the Revised Organic Act of the Virgin Islands (48
18 U.S.C. 1561) is amended in the 23d undesignated
19 paragraph—

20 (A) by inserting “article III;” after “sec-
21 tion 9, clauses 2 and 3;” and

22 (B) by striking “That all offenses against
23 the laws of the United States” and all that fol-
24 lows through “section 22(b) of this Act or” and

1 inserting “That all offenses against the laws of
2 the Virgin Islands which are prosecuted”.

3 (3) JURISDICTION.—Section 21 of the Revised
4 Organic Act of the Virgin Islands (48 U.S.C. 1611)
5 is amended to read as follows:

6 **“SEC. 21. JURISDICTION OF THE COURTS OF THE VIRGIN**
7 **ISLANDS.**

8 “(a) JURISDICTION OF THE COURTS OF THE VIRGIN
9 ISLANDS.—The judicial power of the Virgin Islands shall
10 be vested in such trial and appellate courts as may have
11 been or may hereafter be established by local law. The
12 local courts of the Virgin Islands shall have jurisdiction
13 over all causes of action in the Virgin Islands over which
14 any court established by the Constitution and laws of the
15 United States does not have exclusive jurisdiction.

16 “(b) PRACTICE AND PROCEDURE.—The rules gov-
17 erning the practice and procedure of the courts established
18 by local law and those prescribing the qualifications and
19 duties of the judges and officers thereof, oaths and bonds,
20 and the times and places of holding court shall be gov-
21 erned by local law or the rules promulgated by those
22 courts.”.

23 (4) INCOME TAX MATTERS.—Section 22 of the
24 Revised Organic Act of the Virgin Islands (48
25 U.S.C. 1612) is amended to read as follows:

1 **“SEC. 22. JURISDICTION OVER INCOME TAX MATTERS.**

2 “The United States District Court for the District
3 of the Virgin Islands shall have exclusive jurisdiction over
4 all criminal and civil proceedings in the Virgin Islands
5 with respect to the income tax laws applicable to the Vir-
6 gin Islands, except the ancillary laws relating to the in-
7 come tax enacted by the legislature of the Virgin Islands.
8 Any act or failure to act with respect to the income tax
9 laws applicable to the Virgin Islands which would con-
10 stitute a criminal offense described in chapter 75 of sub-
11 title F of the Internal Revenue Code of 1986 shall con-
12 stitute an offense against the Government of the Virgin
13 Islands and may be prosecuted in the name of the Govern-
14 ment of the Virgin Islands by the appropriate officers
15 thereof in the United States District Court for the District
16 of the Virgin Islands without the request or consent of
17 the United States attorney for the Virgin Islands.”.

18 (5) APPELLATE JURISDICTION.—Section 23A of
19 the Revised Organic Act of the Virgin Islands (48
20 U.S.C. 1613a) is amended—

21 (A) by striking “District Court of the Vir-
22 gin Islands” each place it appears and inserting
23 “United States District Court for the District
24 of the Virgin Islands”; and

25 (B) in subsection (b), by striking “pursu-
26 ant to section 24(a) of this Act: *Provided*, That

1 no more than one of them may be a judge of
2 a court established by local law.” and inserting
3 “pursuant to chapter 13 of title 28, United
4 States Code, or a recalled senior judge of the
5 former District Court of the Virgin Islands.
6 The chief judge of the United States Court of
7 Appeals for the Third Circuit may assign to the
8 appellate division a judge of a court of record
9 of the Virgin Islands, except that no more than
10 1 of the judges sitting in the appellate division
11 at any session may be a judge of a court estab-
12 lished by local law.”.

13 (r) ADDITIONAL REFERENCES.—Any reference in
14 any provision of law to the “District Court of the Virgin
15 Islands” shall, on and after the effective date of this sec-
16 tion, be deemed to be a reference to the United States
17 District Court for the District of the Virgin Islands.

18 (s) EFFECTIVE DATE.—This section and the amend-
19 ments made by this section shall take effect at the end
20 of the 90-day period beginning on the date of the enact-
21 ment of this Act. Any complaint or proceeding pending
22 in the District Court of the Virgin Islands on the effective
23 date of this section may be pursued to final determination
24 in the United States District Court for the District of the
25 Virgin Islands, the United States Court of Appeals for the

1 Third Circuit, the United States Court of Appeals for the
2 Federal Circuit, and the Supreme Court of the United
3 States.

4 **SEC. 5205. EFFECTIVE DATE.**

5 Except as provided in section 5204(s), this subtitle
6 and the amendments made by this subtitle shall take effect
7 on the date of the enactment of this Act.

8 **Subtitle C—Bankruptcy**
9 **Judgeships**

10 **SEC. 5301. SHORT TITLE.**

11 This subtitle may be cited as the “Enhanced Bank-
12 ruptcy Judgeship Act of 2005”.

13 **SEC. 5302. AUTHORIZATION FOR ADDITIONAL BANK-**
14 **RUPTCY JUDGESHIPS.**

15 The following judgeships shall be filled in the manner
16 prescribed in section 152(a)(1) of title 28, United States
17 Code, for the appointment of bankruptcy judges provided
18 for in section 152(a)(2) of such title:

19 (1) 1 additional bankruptcy judgeship for the
20 eastern and western districts of Arkansas.

21 (2) 1 additional bankruptcy judgeship for the
22 eastern district of California.

23 (3) 2 additional bankruptcy judgeships for the
24 middle district of Florida.

1 (4) 2 additional bankruptcy judgeships for the
2 northern district of Georgia.

3 (5) 1 additional bankruptcy judgeship for the
4 southern district of Georgia.

5 (6) 1 additional bankruptcy judgeship for the
6 eastern district of Kentucky.

7 (7) 1 additional bankruptcy judgeship for the
8 district of Maryland.

9 (8) 3 additional bankruptcy judgeships for the
10 eastern district of Michigan.

11 (9) 1 additional bankruptcy judgeship for the
12 southern district of New York.

13 (10) 1 additional bankruptcy judgeship for the
14 western district of Pennsylvania.

15 (11) 1 additional bankruptcy judgeship for the
16 western district of Tennessee.

17 (12) 1 additional bankruptcy judgeship for the
18 eastern district of Texas.

19 (13) 1 additional bankruptcy judgeship for the
20 district of Utah.

21 **SEC. 5303. TEMPORARY BANKRUPTCY JUDGESHIPS.**

22 (a) AUTHORIZATION FOR ADDITIONAL TEMPORARY
23 BANKRUPTCY JUDGESHIPS.—The following judgeships
24 shall be filled in the manner prescribed in section
25 152(a)(1) of title 28, United States Code, for the appoint-

1 ment of bankruptcy judges provided for in section
2 152(a)(2) of such title:

3 (1) 1 additional bankruptcy judgeship for the
4 northern district of Florida.

5 (2) 2 additional bankruptcy judgeships for the
6 middle district of Florida.

7 (3) 1 additional bankruptcy judgeship for the
8 northern district of Indiana.

9 (4) 1 additional bankruptcy judgeship for the
10 northern district of Mississippi.

11 (5) 1 additional bankruptcy judgeship for the
12 district of Nevada.

13 (6) 1 additional bankruptcy judgeship for the
14 western district of North Carolina.

15 (7) 1 additional bankruptcy judgeship for the
16 southern district of Ohio.

17 (b) VACANCIES.—

18 (1) DISTRICTS WITH SINGLE APPOINTMENTS.—

19 Except as provided in paragraph (2), the first va-
20 cancy occurring in the office of bankruptcy judge in
21 each of the judicial districts set forth in subsection

22 (a)—

23 (A) occurring 5 years or more after the ap-
24 pointment date of the bankruptcy judge ap-
25 pointed under subsection (a) to such office, and

1 (B) resulting from the death, retirement,
2 resignation, or removal of a bankruptcy judge,
3 shall not be filled.

4 (2) MIDDLE DISTRICT OF FLORIDA.—The 1st
5 and 2d vacancies in the office of bankruptcy judge
6 in the middle district of Florida—

7 (A) occurring 5 years or more after the re-
8 spective 1st and 2d appointment dates of the
9 bankruptcy judges appointed under subsection
10 (a)(2), and

11 (B) resulting from the death, retirement,
12 resignation, or removal of a bankruptcy judge,
13 shall not be filled.

14 (c) ELIGIBILITY FOR SUBSEQUENT APPOINT-
15 MENTS.—A judge holding office in any of the districts
16 enumerated in subsection (a) shall, at the expiration of
17 the term of the judge (other than by reason of paragraph
18 (1)(B) or (2)(B) of subsection (b)), be eligible for re-
19 appointment as a bankruptcy judge in that district.

20 **SEC. 5304. CONVERSION OF EXISTING TEMPORARY BANK-**
21 **RUPTCY JUDGESHIPS.**

22 (a) JUDGESHIPS AUTHORIZED BY PUBLIC LAW 102–
23 361.—The following temporary bankruptcy judgeships au-
24 thorized by the following paragraphs of section 3(a) of
25 Public Law 102–361, as amended by section 307 of Public

1 Law 104–317 (28 U.S.C. 152 note), are converted to per-
2 manent bankruptcy judgeships under section 152(a)(2) of
3 title 28, United States Code:

4 (1) The temporary bankruptcy judgeship for
5 the district of Delaware authorized by paragraph
6 (3).

7 (2) The temporary bankruptcy judgeship for
8 the southern district of Illinois authorized by para-
9 graph (4).

10 (3) The temporary bankruptcy judgeship for
11 the district of Puerto Rico authorized by paragraph
12 (7).

13 (b) JUDGESHIPS AUTHORIZED BY PUBLIC LAW 109–
14 8.—The following temporary bankruptcy judgeships au-
15 thorized by the following subparagraphs of section
16 1223(b)(1) of the Bankruptcy Abuse Prevention and Con-
17 sumer Protection Act of 2005 (Public Law 109–8), are
18 converted to permanent bankruptcy judgeships under sec-
19 tion 152(a)(2) of title 28, United States Code:

20 (1) The 4 temporary bankruptcy judgeships for
21 the district of Delaware authorized by subparagraph
22 (C).

23 (2) The temporary bankruptcy judgeship for
24 the southern district of Georgia authorized by sub-
25 paragraph (E).

1 (3) One of the 3 temporary bankruptcy judge-
2 ships for the district of Maryland authorized by sub-
3 paragraph (F).

4 (4) The temporary bankruptcy judgeship for
5 the eastern district of Michigan authorized by sub-
6 paragraph (G).

7 (5) The temporary bankruptcy judgeship for
8 the district of New Jersey authorized by subpara-
9 graph (I).

10 (6) The temporary bankruptcy judgeship for
11 the northern district of New York authorized by sub-
12 paragraph (K).

13 (7) The temporary bankruptcy judgeship for
14 the southern district of New York authorized by sub-
15 paragraph (L).

16 (8) The temporary bankruptcy judgeship for
17 the eastern district of North Carolina authorized by
18 subparagraph (M).

19 (9) The temporary bankruptcy judgeship for
20 the eastern district of Pennsylvania authorized by
21 subparagraph (N).

22 (10) The temporary bankruptcy judgeship for
23 the district of South Carolina authorized by sub-
24 paragraph (S).

(11) The temporary bankruptcy judgeship for the western district of Tennessee authorized by subparagraph (Q).

SEC. 5305. GENERAL PROVISIONS.

(a) TABLE OF JUDGESHIPS.—In order that the table contained in section 152(a)(2) of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of bankruptcy judgeships authorized under sections 5302 and 5304, such table is amended to read as follows:

“Districts	Judges
“Alabama:	
“Northern	5
“Middle	2
“Southern	2
“Alaska	2
“Arizona	7
“Arkansas:	
“Eastern and Western	4
“California:	
“Northern.....	9
“Eastern.....	7
“Central	21
“Southern	4
“Colorado.....	5
“Connecticut.....	3
“Delaware.....	6
“District of Columbia.....	1
“Florida:	
“Northern.....	1
“Middle.....	10
“Southern.....	5
“Georgia:	
“Northern.....	10
“Middle.....	3
“Southern	4
“Hawaii.....	1
“Idaho.....	2
“Illinois:	
“Northern.....	10
“Central.....	3
“Southern.....	2

“Indiana:	
“Northern.....	3
“Southern.....	4
“Iowa:	
“Northern.....	2
“Southern.....	2
“Kansas.....	4
“Kentucky:	
“Eastern.....	3
“Western.....	3
“Louisiana:	
“Eastern.....	2
“Middle.....	1
“Western.....	3
“Maine.....	2
“Maryland.....	6
“Massachusetts.....	5
“Michigan:	
“Eastern.....	8
“Western.....	3
“Minnesota.....	4
“Mississippi:	
“Northern.....	1
“Southern.....	2
“Missouri:	
“Eastern.....	3
“Western.....	3
“Montana.....	1
“Nebraska.....	2
“Nevada.....	3
“New Hampshire.....	1
“New Jersey.....	9
“New Mexico.....	2
“New York:	
“Northern.....	3
“Southern.....	11
“Eastern.....	6
“Western.....	3
“North Carolina:	
“Eastern.....	3
“Middle.....	2
“Western.....	2
“North Dakota.....	1
“Ohio:	
“Northern.....	8
“Southern.....	7
“Oklahoma:	
“Northern.....	2
“Eastern.....	1
“Western.....	3
“Oregon.....	5
“Pennsylvania:	
“Eastern.....	6
“Middle.....	2
“Western.....	5

“Puerto Rico.....	3
“Rhode Island.....	1
“South Carolina.....	3
“South Dakota.....	2
“Tennessee:	
“Eastern.....	3
“Middle.....	3
“Western.....	6
“Texas:	
“Northern.....	6
“Eastern.....	3
“Southern.....	6
“Western.....	4
“Utah.....	4
“Vermont.....	1
“Virgin Islands.....	0
“Virginia:	
“Eastern.....	5
“Western.....	3
“Washington:	
“Eastern.....	2
“Western.....	5
“West Virginia:	
“Northern.....	1
“Southern.....	1
“Wisconsin:	
“Eastern.....	4
“Western.....	2
“Wyoming.....	1.”.

1 (b) SENSE OF CONGRESS.—It is the sense of the
2 Congress that bankruptcy judges in the eastern district
3 of California should conduct bankruptcy proceedings on
4 a daily basis in Bakersfield, California.

5 **SEC. 5306. EFFECTIVE DATE.**

6 This subtitle and the amendments made by this sub-
7 title shall take effect on the date of the enactment of this
8 Act.

Subtitle D—Ninth Circuit Reorganization

SEC. 5401. SHORT TITLE.

This subtitle may be cited as the “Judicial Administration and Improvements Act of 2005”.

SEC. 5402. DEFINITIONS.

In this subtitle:

(1) **FORMER NINTH CIRCUIT.**—The term “former ninth circuit” means the ninth judicial circuit of the United States as in existence on the day before the effective date of this subtitle.

(2) **NEW NINTH CIRCUIT.**—The term “new ninth circuit” means the ninth judicial circuit of the United States established by the amendment made by section 5403(2)(A).

(3) **TWELFTH CIRCUIT.**—The term “twelfth circuit” means the twelfth judicial circuit of the United States established by the amendment made by section 5403(2)(B).

SEC. 5403. NUMBER AND COMPOSITION OF CIRCUITS.

Section 41 of title 28, United States Code, is amended—

(1) in the matter preceding the table, by striking “thirteen” and inserting “fourteen”; and

(2) in the table—

1 (A) by striking the item relating to the
 2 ninth circuit and inserting the following:

“Ninth California, Guam, Hawaii, Northern
 Mariana Islands.”;

3 and

4 (B) by inserting after the item relating to
 5 the eleventh circuit the following:

“Twelfth Alaska, Arizona, Idaho, Montana, Ne-
 vada, Oregon, Washington.”.

6 **SEC. 5404. NUMBER OF CIRCUIT JUDGES.**

7 The table contained in section 44(a) of title 28,
 8 United States Code, as amended by section 5202(c) of this
 9 Act, is further amended—

10 (1) by striking the item relating to the ninth
 11 circuit and inserting the following:

“Ninth 19”;

12 and

13 (2) by inserting after the item relating to the
 14 eleventh circuit the following:

“Twelfth 14”.

15 **SEC. 5405. PLACES OF CIRCUIT COURT.**

16 The table contained in section 48(a) of title 28,
 17 United States Code, is amended—

18 (1) by striking the item relating to the ninth
 19 circuit and inserting the following:

“Ninth Honolulu, Pasadena, San Fran-
 cisco.”;

20 and

1 (2) by inserting after the item relating to the
2 eleventh circuit the following:

“Twelfth Las Vegas, Missoula, Phoenix, Port-
land, Seattle.”.

3 **SEC. 5406. ASSIGNMENT OF CIRCUIT JUDGES.**

4 Each circuit judge of the former ninth circuit who
5 is in regular active service and whose official duty station
6 on the day before the effective date of this subtitle—

7 (1) is in California, Guam, Hawaii, or the
8 Northern Mariana Islands shall be a circuit judge of
9 the new ninth circuit as of such effective date; and

10 (2) is in Alaska, Arizona, Idaho, Montana, Ne-
11 vada, Oregon, or Washington shall be a circuit judge
12 of the twelfth circuit as of such effective date.

13 **SEC. 5407. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.**

14 Each judge who is a senior circuit judge of the former
15 ninth circuit on the day before the effective date of this
16 subtitle may elect to be assigned to the new ninth circuit
17 or the twelfth circuit as of such effective date and shall
18 notify the Director of the Administrative Office of the
19 United States Courts of such election.

20 **SEC. 5408. SENIORITY OF JUDGES.**

21 The seniority of each judge—

22 (1) who is assigned under section 5406, or

23 (2) who elects to be assigned under section
24 5407,

1 shall run from the date of commission of such judge as
2 a judge of the former ninth circuit.

3 **SEC. 5409. APPLICATION TO CASES.**

4 The following apply to any case in which, on the day
5 before the effective date of this subtitle, an appeal or other
6 proceeding has been filed with the former ninth circuit:

7 (1) Except as provided in paragraph (3), if the
8 matter has been submitted for decision, further pro-
9 ceedings with respect to the matter shall be had in
10 the same manner and with the same effect as if this
11 subtitle had not been enacted.

12 (2) If the matter has not been submitted for de-
13 cision, the appeal or proceeding, together with the
14 original papers, printed records, and record entries
15 duly certified, shall, by appropriate orders, be trans-
16 ferred to the court to which the matter would have
17 been submitted had this subtitle been in full force
18 and effect at the time such appeal was taken or
19 other proceeding commenced, and further pro-
20 ceedings with respect to the case shall be had in the
21 same manner and with the same effect as if the ap-
22 peal or other proceeding had been filed in such
23 court.

24 (3) If a petition for rehearing en banc is pend-
25 ing on or after the effective date of this subtitle, the

1 petition shall be considered by the court of appeals
2 to which it would have been submitted had this sub-
3 title been in full force and effect at the time that the
4 appeal or other proceeding was filed with the court
5 of appeals.

6 **SEC. 5410. TEMPORARY ASSIGNMENT OF CIRCUIT JUDGES**
7 **AMONG CIRCUITS.**

8 Section 291 of title 28, United States Code, is
9 amended by adding at the end the following:

10 “(c) The chief judge of the Ninth Circuit may, in the
11 public interest and upon request by the chief judge of the
12 Twelfth Circuit, designate and assign temporarily any cir-
13 cuit judge of the Ninth Circuit to act as circuit judge in
14 the Twelfth Circuit.

15 “(d) The chief judge of the Twelfth Circuit may, in
16 the public interest and upon request by the chief judge
17 of the Ninth Circuit, designate and assign temporarily any
18 circuit judge of the Twelfth Circuit to act as circuit judge
19 in the Ninth Circuit.”.

20 **SEC. 5411. TEMPORARY ASSIGNMENT OF DISTRICT JUDGES**
21 **AMONG CIRCUITS.**

22 Section 292 of title 28, United States Code, is
23 amended by adding at the end the following:

24 “(f) The chief judge of the United States Court of
25 Appeals for the Ninth Circuit may, in the public interest—

1 “(1) upon request by the chief judge of the
2 Twelfth Circuit, designate and assign 1 or more dis-
3 trict judges within the Ninth Circuit to sit upon the
4 Court of Appeals of the Twelfth Circuit, or a divi-
5 sion thereof, whenever the business of that court so
6 requires; and

7 “(2) designate and assign temporarily any dis-
8 trict judge within the Ninth Circuit to hold a district
9 court in any district within the Twelfth Circuit.

10 “(g) The chief judge of the United States Court of
11 Appeals for the Twelfth Circuit may in the public inter-
12 est—

13 “(1) upon request by the chief judge of the
14 Ninth Circuit, designate and assign 1 or more dis-
15 trict judges within the Twelfth Circuit to sit upon
16 the Court of Appeals of the Ninth Circuit, or a divi-
17 sion thereof, whenever the business of that court so
18 requires; and

19 “(2) designate and assign temporarily any dis-
20 trict judge within the Twelfth Circuit to hold a dis-
21 trict court in any district within the Ninth Circuit.

22 “(h) Any designations or assignments under sub-
23 section (f) or (g) shall be in conformity with the rules or
24 orders of the court of appeals of, or the district within,

1 as applicable, the circuit to which the judge is designated
2 or assigned.”.

3 **SEC. 5412. ADMINISTRATION.**

4 The court of appeals for the ninth circuit as con-
5 stituted on the day before the effective date of this subtitle
6 may take such administrative action as may be required
7 to carry out this subtitle and the amendments made by
8 this subtitle. Such court shall cease to exist for adminis-
9 trative purposes 2 years after the date of the enactment
10 of this Act.

11 **SEC. 5413. EFFECTIVE DATE.**

12 This subtitle and the amendments made by this sub-
13 title shall take effect no later than December 31, 2006.

14 **Subtitle E—Authorization of**
15 **Appropriations**

16 **SEC. 5501. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated for each of
18 fiscal years 2006 through 2009 such sums as are nec-
19 essary to carry out subtitles B, C, and D of this title, in-
20 cluding such sums as may be necessary to provide appro-
21 priate space and facilities for the judicial positions created
22 by this title. Funds appropriated pursuant to this section
23 in any fiscal year shall remain available until expended.

1 **TITLE VI—COMMITTEE ON**

2 **RESOURCES**

Subtitle A—Arctic Coastal Plain Domestic Energy

- Sec. 6101. Short title.
- Sec. 6102. Definitions.
- Sec. 6103. Leasing program for lands within the coastal plain.
- Sec. 6104. Lease sales.
- Sec. 6105. Grant of leases by the Secretary.
- Sec. 6106. Lease terms and conditions.
- Sec. 6107. Coastal Plain environmental protection.
- Sec. 6108. Expedited judicial review.
- Sec. 6109. Federal and State distribution of revenues.
- Sec. 6110. Rights-of-way across the Coastal Plain.
- Sec. 6111. Conveyance.
- Sec. 6112. Local government impact aid and community service assistance.

Subtitle B—Miscellaneous Amendments Relating to Mining

- Sec. 6201. Fees for recordation and location of mining claims.
- Sec. 6202. Patents for mining or mill site claims.
- Sec. 6203. Mineral examinations for mining on certain lands.
- Sec. 6204. Mineral development lands available for purchase.
- Sec. 6205. National mining and minerals policy to encourage and promote the
productive second use of lands.
- Sec. 6206. Regulations.
- Sec. 6207. Protection of national parks and wilderness areas.

Subtitle C—Disposal of Public Lands

CHAPTER 1—DISPOSAL OF CERTAIN PUBLIC LANDS IN NEVADA

- Sec. 6301. Short title.
- Sec. 6302. Definitions.
- Sec. 6303. Land conveyance.
- Sec. 6304. Disposition of proceeds.

CHAPTER 2—DISPOSAL OF CERTAIN PUBLIC LANDS IN IDAHO

- Sec. 6311. Short title.
- Sec. 6312. Definitions.
- Sec. 6313. Land conveyance.
- Sec. 6314. Disposition of proceeds.

Subtitle D—Oil shale

- Sec. 6401. Oil shale and tar sands amendments.

Subtitle E—Ocean Energy Resources

- Sec. 6501. Short title.
- Sec. 6502. Policy.
- Sec. 6503. Definitions under the Outer Continental Shelf Lands Act.
- Sec. 6504. Determination of adjacent zones and planning areas.

- Sec. 6505. Administration of leasing.
- Sec. 6506. Grant of leases by Secretary.
- Sec. 6507. Disposition of receipts.
- Sec. 6508. Review of outer Continental Shelf exploration plans.
- Sec. 6509. Reservation of lands and rights.
- Sec. 6510. Outer Continental Shelf leasing program.
- Sec. 6511. Coordination with Adjacent States.
- Sec. 6512. Environmental studies.
- Sec. 6513. Review of outer Continental Shelf development and production plans.
- Sec. 6514. Federal Energy Natural Resources Enhancement Fund Act of 2005.
- Sec. 6515. Termination of effect of laws prohibiting the spending of appropriated funds for certain purposes.
- Sec. 6516. Outer Continental Shelf incompatible use.
- Sec. 6517. Repurchase of certain leases.
- Sec. 6518. Offsite environmental mitigation.
- Sec. 6519. Amendments to the Mineral Leasing Act.
- Sec. 6520. Minerals Management Service.
- Sec. 6521. Authority to use decommissioned offshore oil and gas platforms and other facilities for mariculture, artificial reef, scientific research, or other uses.
- Sec. 6522. Repeal of requirement to conduct comprehensive inventory of OCS oil and natural gas resources.
- Sec. 6523. Mining and petroleum schools.
- Sec. 6524. Onshore and offshore mineral lease fees.
- Sec. 6525. Atlantic and Pacific OCS Region headquarters.
- Sec. 6526. National Geologic Data and Mapping Fund Act of 2005.
- Sec. 6527. Leases for areas located within 100 miles of California or Florida.

Subtitle F—Sale and Conveyance of Federal Land

- Sec. 6601. Collection of receipts from the sale of Federal lands.

1 **Subtitle A—Arctic Coastal Plain** 2 **Domestic Energy**

3 **SEC. 6101. SHORT TITLE.**

4 This subtitle may be cited as the “Arctic Coastal
5 Plain Domestic Energy Security Act of 2005”.

6 **SEC. 6102. DEFINITIONS.**

7 In this subtitle:

8 (1) COASTAL PLAIN.—The term “Coastal
9 Plain” means that area identified as such in the
10 map entitled “Arctic National Wildlife Refuge”,
11 dated October 21, 2005, comprising approximately

1 1,549,000 acres, and as described in appendix I to
2 part 37 of title 50, Code of Federal Regulations.

3 (2) SECRETARY.—The term “Secretary”, except
4 as otherwise provided, means the Secretary of the
5 Interior or the Secretary’s designee.

6 **SEC. 6103. LEASING PROGRAM FOR LANDS WITHIN THE**
7 **COASTAL PLAIN.**

8 (a) IN GENERAL.—The Secretary shall take such ac-
9 tions as are necessary—

10 (1) to establish and implement, in accordance
11 with this Act and acting through the Director of the
12 Bureau of Land Management in consultation with
13 the Director of the United States Fish and Wildlife
14 Service, a competitive oil and gas leasing program
15 under the Mineral Leasing Act (30 U.S.C. 181 et
16 seq.) that will result in an environmentally sound
17 program for the exploration, development, and pro-
18 duction of the oil and gas resources of the Coastal
19 Plain; and

20 (2) to administer the provisions of this subtitle
21 through regulations, lease terms, conditions, restric-
22 tions, prohibitions, stipulations, and other provisions
23 that ensure the oil and gas exploration, development,
24 and production activities on the Coastal Plain will
25 result in no significant adverse effect on fish and

1 wildlife, their habitat, subsistence resources, and the
2 environment, and including, in furtherance of this
3 goal, by requiring the application of the best com-
4 mercially available technology for oil and gas explo-
5 ration, development, and production to all explo-
6 ration, development, and production operations
7 under this subtitle in a manner that ensures the re-
8 ceipt of fair market value by the public for the min-
9 eral resources to be leased.

10 (b) REPEAL.—Section 1003 of the Alaska National
11 Interest Lands Conservation Act of 1980 (16 U.S.C.
12 3143) is repealed.

13 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-
14 TAIN OTHER LAWS.—

15 (1) COMPATIBILITY.—For purposes of the Na-
16 tional Wildlife Refuge System Administration Act of
17 1966, the oil and gas leasing program and activities
18 authorized by this section in the Coastal Plain are
19 deemed to be compatible with the purposes for which
20 the Arctic National Wildlife Refuge was established,
21 and that no further findings or decisions are re-
22 quired to implement this determination.

23 (2) ADEQUACY OF THE DEPARTMENT OF THE
24 INTERIOR’S LEGISLATIVE ENVIRONMENTAL IMPACT
25 STATEMENT.—The “Final Legislative Environ-

1 mental Impact Statement” (April 1987) on the
2 Coastal Plain prepared pursuant to section 1002 of
3 the Alaska National Interest Lands Conservation
4 Act of 1980 (16 U.S.C. 3142) and section 102(2)(C)
5 of the National Environmental Policy Act of 1969
6 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the re-
7 quirements under the National Environmental Policy
8 Act of 1969 that apply with respect to prelease ac-
9 tivities, including actions authorized to be taken by
10 the Secretary to develop and promulgate the regula-
11 tions for the establishment of a leasing program au-
12 thorized by this subtitle before the conduct of the
13 first lease sale.

14 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
15 TIONS.—Before conducting the first lease sale under
16 this subtitle, the Secretary shall prepare an environ-
17 mental impact statement under the National Envi-
18 ronmental Policy Act of 1969 with respect to the ac-
19 tions authorized by this subtitle that are not re-
20 ferred to in paragraph (2). Notwithstanding any
21 other law, the Secretary is not required to identify
22 nonleasing alternative courses of action or to analyze
23 the environmental effects of such courses of action.
24 The Secretary shall only identify a preferred action
25 for such leasing and a single leasing alternative, and

1 analyze the environmental effects and potential miti-
2 gation measures for those two alternatives. The
3 identification of the preferred action and related
4 analysis for the first lease sale under this subtitle
5 shall be completed within 18 months after the date
6 of enactment of this Act. The Secretary shall only
7 consider public comments that specifically address
8 the Secretary's preferred action and that are filed
9 within 20 days after publication of an environmental
10 analysis. Notwithstanding any other law, compliance
11 with this paragraph is deemed to satisfy all require-
12 ments for the analysis and consideration of the envi-
13 ronmental effects of proposed leasing under this sub-
14 title.

15 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
16 ITY.—Nothing in this subtitle shall be considered to ex-
17 pand or limit State and local regulatory authority.

18 (e) SPECIAL AREAS.—

19 (1) IN GENERAL.—The Secretary, after con-
20 sultation with the State of Alaska, the city of
21 Kaktovik, and the North Slope Borough, may des-
22 ignate up to a total of 45,000 acres of the Coastal
23 Plain as a Special Area if the Secretary determines
24 that the Special Area is of such unique character
25 and interest so as to require special management

1 and regulatory protection. The Secretary shall des-
2 ignate as such a Special Area the Sadlerochit Spring
3 area, comprising approximately 4,000 acres as de-
4 picted on the map referred to in section 6102(1).

5 (2) MANAGEMENT.—Each such Special Area
6 shall be managed so as to protect and preserve the
7 area's unique and diverse character including its
8 fish, wildlife, and subsistence resource values.

9 (3) EXCLUSION FROM LEASING OR SURFACE
10 OCCUPANCY.—The Secretary may exclude any Spe-
11 cial Area from leasing. If the Secretary leases a Spe-
12 cial Area, or any part thereof, for purposes of oil
13 and gas exploration, development, production, and
14 related activities, there shall be no surface occu-
15 pancy of the lands comprising the Special Area.

16 (4) DIRECTIONAL DRILLING.—Notwithstanding
17 the other provisions of this subsection, the Secretary
18 may lease all or a portion of a Special Area under
19 terms that permit the use of horizontal drilling tech-
20 nology from sites on leases located outside the area.

21 (f) LIMITATION ON CLOSED AREAS.—The Sec-
22 retary's sole authority to close lands within the Coastal
23 Plain to oil and gas leasing and to exploration, develop-
24 ment, and production is that set forth in this subtitle.

25 (g) REGULATIONS.—

1 (1) IN GENERAL.—The Secretary shall pre-
2 scribe such regulations as may be necessary to carry
3 out this subtitle, including rules and regulations re-
4 lating to protection of the fish and wildlife, their
5 habitat, subsistence resources, and environment of
6 the Coastal Plain, by no later than 15 months after
7 the date of enactment of this Act.

8 (2) REVISION OF REGULATIONS.—The Sec-
9 retary shall periodically review and, if appropriate,
10 revise the rules and regulations issued under sub-
11 section (a) to reflect any significant biological, envi-
12 ronmental, or engineering data that come to the Sec-
13 retary's attention.

14 **SEC. 6104. LEASE SALES.**

15 (a) IN GENERAL.—Lands may be leased pursuant to
16 this subtitle to any person qualified to obtain a lease for
17 deposits of oil and gas under the Mineral Leasing Act (30
18 U.S.C. 181 et seq.).

19 (b) PROCEDURES.—The Secretary shall, by regula-
20 tion, establish procedures for—

21 (1) receipt and consideration of sealed nomina-
22 tions for any area in the Coastal Plain for inclusion
23 in, or exclusion (as provided in subsection (c)) from,
24 a lease sale;

1 (2) the holding of lease sales after such nomina-
2 tion process; and

3 (3) public notice of and comment on designa-
4 tion of areas to be included in, or excluded from, a
5 lease sale.

6 (c) LEASE SALE BIDS.—Bidding for leases under
7 this subtitle shall be by sealed competitive cash bonus bids.

8 (d) ACREAGE MINIMUM IN FIRST SALE.—In the first
9 lease sale under this subtitle, the Secretary shall offer for
10 lease those tracts the Secretary considers to have the
11 greatest potential for the discovery of hydrocarbons, tak-
12 ing into consideration nominations received pursuant to
13 subsection (b)(1), but in no case less than 200,000 acres.

14 (e) TIMING OF LEASE SALES.—The Secretary
15 shall—

16 (1) conduct the first lease sale under this sub-
17 title within 22 months after the date of the enact-
18 ment of this Act; and

19 (2) conduct additional sales so long as sufficient
20 interest in development exists to warrant, in the Sec-
21 retary's judgment, the conduct of such sales.

22 **SEC. 6105. GRANT OF LEASES BY THE SECRETARY.**

23 (a) IN GENERAL.—The Secretary may grant to the
24 highest responsible qualified bidder in a lease sale con-
25 ducted pursuant to section 6104 any lands to be leased

1 on the Coastal Plain upon payment by the lessee of such
2 bonus as may be accepted by the Secretary.

3 (b) SUBSEQUENT TRANSFERS.—No lease issued
4 under this subtitle may be sold, exchanged, assigned, sub-
5 let, or otherwise transferred except with the approval of
6 the Secretary. Prior to any such approval the Secretary
7 shall consult with, and give due consideration to the views
8 of, the Attorney General.

9 **SEC. 6106. LEASE TERMS AND CONDITIONS.**

10 (a) IN GENERAL.—An oil or gas lease issued pursu-
11 ant to this subtitle shall—

12 (1) provide for the payment of a royalty of not
13 less than 12½ percent in amount or value of the
14 production removed or sold from the lease, as deter-
15 mined by the Secretary under the regulations appli-
16 cable to other Federal oil and gas leases;

17 (2) provide that the Secretary may close, on a
18 seasonal basis, portions of the Coastal Plain to ex-
19 ploratory drilling activities as necessary to protect
20 caribou calving areas and other species of fish and
21 wildlife;

22 (3) require that the lessee of lands within the
23 Coastal Plain shall be fully responsible and liable for
24 the reclamation of lands within the Coastal Plain
25 and any other Federal lands that are adversely af-

1 fected in connection with exploration, development,
2 production, or transportation activities conducted
3 under the lease and within the Coastal Plain by the
4 lessee or by any of the subcontractors or agents of
5 the lessee;

6 (4) provide that the lessee may not delegate or
7 convey, by contract or otherwise, the reclamation re-
8 sponsibility and liability to another person without
9 the express written approval of the Secretary;

10 (5) provide that the standard of reclamation for
11 lands required to be reclaimed under this subtitle
12 shall be, as nearly as practicable, a condition capable
13 of supporting the uses which the lands were capable
14 of supporting prior to any exploration, development,
15 or production activities, or upon application by the
16 lessee, to a higher or better use as approved by the
17 Secretary;

18 (6) contain terms and conditions relating to
19 protection of fish and wildlife, their habitat, and the
20 environment as required pursuant to section
21 6103(a)(2);

22 (7) provide that the lessee, its agents, and its
23 contractors use best efforts to provide a fair share,
24 as determined by the level of obligation previously
25 agreed to in the 1974 agreement implementing sec-

1 tion 29 of the Federal Agreement and Grant of
2 Right of Way for the Operation of the Trans-Alaska
3 Pipeline, of employment and contracting for Alaska
4 Natives and Alaska Native Corporations from
5 throughout the State;

6 (8) prohibit the export of oil produced under
7 the lease; and

8 (9) contain such other provisions as the Sec-
9 retary determines necessary to ensure compliance
10 with the provisions of this subtitle and the regula-
11 tions issued under this subtitle.

12 (b) PROJECT LABOR AGREEMENTS.—The Secretary,
13 as a term and condition of each lease under this subtitle
14 and in recognizing the Government's proprietary interest
15 in labor stability and in the ability of construction labor
16 and management to meet the particular needs and condi-
17 tions of projects to be developed under the leases issued
18 pursuant to this subtitle and the special concerns of the
19 parties to such leases, shall require that the lessee and
20 its agents and contractors negotiate to obtain a project
21 labor agreement for the employment of laborers and me-
22 chanics on production, maintenance, and construction
23 under the lease.

1 **SEC. 6107. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

2 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD
3 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—

4 The Secretary shall, consistent with the requirements of
5 section 6103, administer the provisions of this subtitle
6 through regulations, lease terms, conditions, restrictions,
7 prohibitions, stipulations, and other provisions that—

8 (1) ensure the oil and gas exploration, develop-
9 ment, and production activities on the Coastal Plain
10 will result in no significant adverse effect on fish
11 and wildlife, their habitat, and the environment;

12 (2) require the application of the best commer-
13 cially available technology for oil and gas explo-
14 ration, development, and production on all new ex-
15 ploration, development, and production operations;
16 and

17 (3) ensure that the maximum amount of sur-
18 face acreage covered by production and support fa-
19 cilities, including airstrips and any areas covered by
20 gravel berms or piers for support of pipelines, does
21 not exceed 2,000 acres on the Coastal Plain.

22 (b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—

23 The Secretary shall also require, with respect to any pro-
24 posed drilling and related activities, that—

25 (1) a site-specific analysis be made of the prob-
26 able effects, if any, that the drilling or related activi-

1 ties will have on fish and wildlife, their habitat, and
2 the environment;

3 (2) a plan be implemented to avoid, minimize,
4 and mitigate (in that order and to the extent prac-
5 ticable) any significant adverse effect identified
6 under paragraph (1); and

7 (3) the development of the plan shall occur
8 after consultation with the agency or agencies hav-
9 ing jurisdiction over matters mitigated by the plan.

10 (c) REGULATIONS TO PROTECT COASTAL PLAIN
11 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,
12 AND THE ENVIRONMENT.—Before implementing the leas-
13 ing program authorized by this subtitle, the Secretary
14 shall prepare and promulgate regulations, lease terms,
15 conditions, restrictions, prohibitions, stipulations, and
16 other measures designed to ensure that the activities un-
17 dertaken on the Coastal Plain under this subtitle are con-
18 ducted in a manner consistent with the purposes and envi-
19 ronmental requirements of this subtitle.

20 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
21 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
22 proposed regulations, lease terms, conditions, restrictions,
23 prohibitions, and stipulations for the leasing program
24 under this subtitle shall require compliance with all appli-

1 cable provisions of Federal and State environmental law
2 and shall also require the following:

3 (1) Standards at least as effective as the safety
4 and environmental mitigation measures set forth in
5 items 1 through 29 at pages 167 through 169 of the
6 “Final Legislative Environmental Impact State-
7 ment” (April 1987) on the Coastal Plain.

8 (2) Seasonal limitations on exploration, develop-
9 ment, and related activities, where necessary, to
10 avoid significant adverse effects during periods of
11 concentrated fish and wildlife breeding, denning,
12 nesting, spawning, and migration.

13 (3) That exploration activities, except for sur-
14 face geological studies, be limited to the period be-
15 tween approximately November 1 and May 1 each
16 year and that exploration activities shall be sup-
17 ported, if necessary, by ice roads, winter trails with
18 adequate snow cover, ice pads, ice airstrips, and air
19 transport methods, except that such exploration ac-
20 tivities may occur at other times, if the Secretary
21 finds that such exploration will have no significant
22 adverse effect on the fish and wildlife, their habitat,
23 and the environment of the Coastal Plain.

1 (4) Design safety and construction standards
2 for all pipelines and any access and service roads,
3 that—

4 (A) minimize, to the maximum extent pos-
5 sible, adverse effects upon the passage of mi-
6 gratory species such as caribou; and

7 (B) minimize adverse effects upon the flow
8 of surface water by requiring the use of cul-
9 verts, bridges, and other structural devices.

10 (5) Prohibitions on general public access and
11 use on all pipeline access and service roads.

12 (6) Stringent reclamation and rehabilitation re-
13 quirements, consistent with the standards set forth
14 in this subtitle, requiring the removal from the
15 Coastal Plain of all oil and gas development and
16 production facilities, structures, and equipment upon
17 completion of oil and gas production operations, ex-
18 cept that the Secretary may exempt from the re-
19 quirements of this paragraph those facilities, struc-
20 tures, or equipment that the Secretary determines
21 would assist in the management of the Arctic Na-
22 tional Wildlife Refuge and that are donated to the
23 United States for that purpose.

24 (7) Appropriate prohibitions or restrictions on
25 access by all modes of transportation.

1 (8) Appropriate prohibitions or restrictions on
2 sand and gravel extraction.

3 (9) Consolidation of facility siting.

4 (10) Appropriate prohibitions or restrictions on
5 use of explosives.

6 (11) Avoidance, to the extent practicable, of
7 springs, streams, and river system; the protection of
8 natural surface drainage patterns, wetlands, and ri-
9 parian habitats; and the regulation of methods or
10 techniques for developing or transporting adequate
11 supplies of water for exploratory drilling.

12 (12) Avoidance or reduction of air traffic-re-
13 lated disturbance to fish and wildlife.

14 (13) Treatment and disposal of hazardous and
15 toxic wastes, solid wastes, reserve pit fluids, drilling
16 muds and cuttings, and domestic wastewater, includ-
17 ing an annual waste management report, a haz-
18 ardous materials tracking system, and a prohibition
19 on chlorinated solvents, in accordance with applica-
20 ble Federal and State environmental law.

21 (14) Fuel storage and oil spill contingency plan-
22 ning.

23 (15) Research, monitoring, and reporting re-
24 quirements.

25 (16) Field crew environmental briefings.

1 (17) Avoidance of significant adverse effects
2 upon subsistence hunting, fishing, and trapping by
3 subsistence users.

4 (18) Compliance with applicable air and water
5 quality standards.

6 (19) Appropriate seasonal and safety zone des-
7 ignations around well sites, within which subsistence
8 hunting and trapping shall be limited.

9 (20) Reasonable stipulations for protection of
10 cultural and archeological resources.

11 (21) All other protective environmental stipula-
12 tions, restrictions, terms, and conditions deemed
13 necessary by the Secretary.

14 (e) CONSIDERATIONS.—In preparing and promul-
15 gating regulations, lease terms, conditions, restrictions,
16 prohibitions, and stipulations under this section, the Sec-
17 retary shall consider the following:

18 (1) The stipulations and conditions that govern
19 the National Petroleum Reserve-Alaska leasing pro-
20 gram, as set forth in the 1999 Northeast National
21 Petroleum Reserve-Alaska Final Integrated Activity
22 Plan/Environmental Impact Statement.

23 (2) The environmental protection standards
24 that governed the initial Coastal Plain seismic explo-

1 ration program under parts 37.31 to 37.33 of title
2 50, Code of Federal Regulations.

3 (3) The land use stipulations for exploratory
4 drilling on the KIC-ASRC private lands that are set
5 forth in Appendix 2 of the August 9, 1983, agree-
6 ment between Arctic Slope Regional Corporation and
7 the United States.

8 (f) FACILITY CONSOLIDATION PLANNING.—

9 (1) IN GENERAL.—The Secretary shall, after
10 providing for public notice and comment, prepare
11 and update periodically a plan to govern, guide, and
12 direct the siting and construction of facilities for the
13 exploration, development, production, and transpor-
14 tation of Coastal Plain oil and gas resources.

15 (2) OBJECTIVES.—The plan shall have the fol-
16 lowing objectives:

17 (A) Avoiding unnecessary duplication of fa-
18 cilities and activities.

19 (B) Encouraging consolidation of common
20 facilities and activities.

21 (C) Locating or confining facilities and ac-
22 tivities to areas that will minimize impact on
23 fish and wildlife, their habitat, and the environ-
24 ment.

1 (D) Utilizing existing facilities wherever
2 practicable.

3 (E) Enhancing compatibility between wild-
4 life values and development activities.

5 (g) ACCESS TO PUBLIC LANDS.—The Secretary
6 shall—

7 (1) manage public lands in the Coastal Plain
8 subject to subsections (a) and (b) of section 811 of
9 the Alaska National Interest Lands Conservation
10 Act (16 U.S.C. 3121); and

11 (2) ensure that local residents shall have rea-
12 sonable access to public lands in the Coastal Plain
13 for traditional uses.

14 **SEC. 6108. EXPEDITED JUDICIAL REVIEW.**

15 (a) FILING OF COMPLAINT.—

16 (1) DEADLINE.—Subject to paragraph (2), any
17 complaint seeking judicial review of any provision of
18 this subtitle or any action of the Secretary under
19 this subtitle shall be filed in any appropriate district
20 court of the United States—

21 (A) except as provided in subparagraph
22 (B), within the 90-day period beginning on the
23 date of the action being challenged; or

24 (B) in the case of a complaint based solely
25 on grounds arising after such period, within 90

1 days after the complainant knew or reasonably
2 should have known of the grounds for the com-
3 plaint.

4 (2) VENUE.—Any complaint seeking judicial re-
5 view of an action of the Secretary under this subtitle
6 may be filed only in the United States Court of Ap-
7 peals for the District of Columbia.

8 (3) LIMITATION ON SCOPE OF CERTAIN RE-
9 VIEW.—Judicial review of a Secretarial decision to
10 conduct a lease sale under this subtitle, including
11 the environmental analysis thereof, shall be limited
12 to whether the Secretary has complied with the
13 terms of this subtitle and shall be based upon the
14 administrative record of that decision. The Sec-
15 retary's identification of a preferred course of action
16 to enable leasing to proceed and the Secretary's
17 analysis of environmental effects under this subtitle
18 shall be presumed to be correct unless shown other-
19 wise by clear and convincing evidence to the con-
20 trary.

21 (b) LIMITATION ON OTHER REVIEW.—Actions of the
22 Secretary with respect to which review could have been
23 obtained under this section shall not be subject to judicial
24 review in any civil or criminal proceeding for enforcement.

1 **SEC. 6109. FEDERAL AND STATE DISTRIBUTION OF REVE-**
2 **NUES.**

3 (a) IN GENERAL.—Notwithstanding any other provi-
4 sion of law, of the amount of adjusted bonus, rental, and
5 royalty revenues from oil and gas leasing and operations
6 authorized under this subtitle—

7 (1) 50 percent shall be paid to the State of
8 Alaska; and

9 (2) except as provided in section 6112(d) the
10 balance shall be deposited into the Treasury as mis-
11 cellaneous receipts.

12 (b) PAYMENTS TO ALASKA.—Payments to the State
13 of Alaska under this section shall be made semiannually.

14 **SEC. 6110. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

15 (a) EXEMPTION.—Title XI of the Alaska National In-
16 terest Lands Conservation Act of 1980 (16 U.S.C. 3161
17 et seq.) shall not apply to the issuance by the Secretary
18 under section 28 of the Mineral Leasing Act (30 U.S.C.
19 185) of rights-of-way and easements across the Coastal
20 Plain for the transportation of oil and gas.

21 (b) TERMS AND CONDITIONS.—The Secretary shall
22 include in any right-of-way or easement referred to in sub-
23 section (a) such terms and conditions as may be necessary
24 to ensure that transportation of oil and gas does not result
25 in a significant adverse effect on the fish and wildlife, sub-
26 sistence resources, their habitat, and the environment of

1 the Coastal Plain, including requirements that facilities be
2 sited or designed so as to avoid unnecessary duplication
3 of roads and pipelines.

4 (c) REGULATIONS.—The Secretary shall include in
5 regulations under section 6103(g) provisions granting
6 rights-of-way and easements described in subsection (a)
7 of this section.

8 **SEC. 6111. CONVEYANCE.**

9 In order to maximize Federal revenues by removing
10 clouds on title to lands and clarifying land ownership pat-
11 terns within the Coastal Plain, the Secretary, notwith-
12 standing the provisions of section 1302(h)(2) of the Alas-
13 ka National Interest Lands Conservation Act (16 U.S.C.
14 3192(h)(2)), shall convey—

15 (1) to the Kaktovik Inupiat Corporation the
16 surface estate of the lands described in paragraph 1
17 of Public Land Order 6959, to the extent necessary
18 to fulfill the Corporation's entitlement under section
19 12 of the Alaska Native Claims Settlement Act (43
20 U.S.C. 1611) in accordance with the terms and con-
21 ditions of the Agreement between the Department of
22 the Interior, the United States Fish and Wildlife
23 Service, the Bureau of Land Management, and the
24 Kaktovik Inupiat Corporation effective January 22,
25 1993; and

1 (2) to the Arctic Slope Regional Corporation
2 the remaining subsurface estate to which it is enti-
3 tled pursuant to the August 9, 1983, agreement be-
4 tween the Arctic Slope Regional Corporation and the
5 United States of America.

6 **SEC. 6112. LOCAL GOVERNMENT IMPACT AID AND COMMU-**
7 **NITY SERVICE ASSISTANCE.**

8 (a) FINANCIAL ASSISTANCE AUTHORIZED.—

9 (1) IN GENERAL.—The Secretary may use
10 amounts available from the Coastal Plain Local Gov-
11 ernment Impact Aid Assistance Fund established by
12 subsection (d) to provide timely financial assistance
13 to entities that are eligible under paragraph (2) and
14 that are directly impacted by the exploration for or
15 production of oil and gas on the Coastal Plain under
16 this subtitle.

17 (2) ELIGIBLE ENTITIES.—The North Slope
18 Borough, Kaktovik, and other boroughs, municipal
19 subdivisions, villages, and any other community or-
20 ganized under Alaska State law shall be eligible for
21 financial assistance under this section.

22 (b) USE OF ASSISTANCE.—Financial assistance
23 under this section may be used only for—

24 (1) planning for mitigation of the potential ef-
25 fects of oil and gas exploration and development on

1 environmental, social, cultural, recreational and sub-
2 sistence values;

3 (2) implementing mitigation plans and main-
4 taining mitigation projects;

5 (3) developing, carrying out, and maintaining
6 projects and programs that provide new or expanded
7 public facilities and services to address needs and
8 problems associated with such effects, including fire-
9 fighting, police, water, waste treatment, medivac,
10 and medical services; and

11 (4) establishment of a coordination office, by
12 the North Slope Borough, in the City of Kaktovik,
13 which shall—

14 (A) coordinate with and advise developers
15 on local conditions, impact, and history of the
16 areas utilized for development; and

17 (B) provide to the Committee on Resources
18 of the House of Representatives and the Com-
19 mittee on Energy and Resources of the Senate
20 an annual report on the status of coordination
21 between developers and the communities af-
22 fected by development.

23 (c) APPLICATION.—

24 (1) IN GENERAL.—Any community that is eligi-
25 ble for assistance under this section may submit an

1 application for such assistance to the Secretary, in
2 such form and under such procedures as the Sec-
3 retary may prescribe by regulation.

4 (2) NORTH SLOPE BOROUGH COMMUNITIES.—A
5 community located in the North Slope Borough may
6 apply for assistance under this section either directly
7 to the Secretary or through the North Slope Bor-
8 ough.

9 (3) APPLICATION ASSISTANCE.—The Secretary
10 shall work closely with and assist the North Slope
11 Borough and other communities eligible for assist-
12 ance under this section in developing and submitting
13 applications for assistance under this section.

14 (d) ESTABLISHMENT OF FUND.—

15 (1) IN GENERAL.—There is established in the
16 Treasury the Coastal Plain Local Government Im-
17 pact Aid Assistance Fund.

18 (2) USE.—Amounts in the fund may be used
19 only for providing financial assistance under this
20 section.

21 (3) DEPOSITS.—Subject to paragraph (4), there
22 shall be deposited into the fund amounts received by
23 the United States as revenues derived from rents,
24 bonuses, and royalties under leases and lease sales
25 authorized under this subtitle.

1 (4) LIMITATION ON DEPOSITS.—The total
2 amount in the fund may not exceed \$11,000,000.

3 (5) INVESTMENT OF BALANCES.—The Sec-
4 retary of the Treasury shall invest amounts in the
5 fund in interest bearing government securities.

6 (e) AUTHORIZATION OF APPROPRIATIONS.—To pro-
7 vide financial assistance under this section there is author-
8 ized to be appropriated to the Secretary from the Coastal
9 Plain Local Government Impact Aid Assistance Fund
10 \$5,000,000 for each fiscal year.

11 **Subtitle B—Miscellaneous**
12 **Amendments Relating to Mining**

13 **SEC. 6201. FEES FOR RECORDATION AND LOCATION OF**
14 **MINING CLAIMS.**

15 (a) DIMENSIONS OF MINING CLAIMS.—Section 2320
16 of the Revised Statutes (30 U.S.C. 23) is amended by
17 striking the second and third sentences and inserting the
18 following: “A mining claim located after May 10, 1872,
19 whether located by one or more persons, and including a
20 claim located before exposure of the vein or lode, may
21 equal, but shall not exceed, 1,500 feet in length along the
22 vein or lode, and shall extend no more than 300 feet on
23 each side of the middle of the vein at the surface, nor
24 shall any claim be limited by any mining regulation to less
25 than 25 feet on each side of the middle of the vein at

1 the surface, except where adverse rights existing on May
2 10, 1872, render such limitation necessary.”.

3 (b) RIGHTS SECURED BY CLAIM MAINTENANCE
4 FEES.—Section 2322 of the Revised Statutes (30 U.S.C.
5 26) is amended by inserting “(a) RIGHTS OF LOCATORS,
6 GENERALLY.—” before the first sentence, and by adding
7 at the end the following:

8 “(b) RIGHTS SECURED BY MAINTENANCE FEES.—
9 Prior to issuance of a patent, timely payment of the claim
10 maintenance fee secures the rights of the holder of a min-
11 ing claim, mill site, or tunnel site, both prior to and after
12 discovery of valuable mineral deposits, to use and occupy
13 public lands under the provisions of the general mining
14 law of the United States (as that term is defined in section
15 2324 of the Revised Statutes) for mineral prospecting, ex-
16 ploration, development, mining, milling, and processing of
17 minerals, reclamation of the claimed lands, and uses rea-
18 sonably incident thereto. Except for the location fee and
19 the maintenance fees in section 2324 of the Revised Stat-
20 utes (30 U.S.C. 28), and the patent prices in sections
21 2325, 2326, 2333, and 2337 of the Revised Statutes (30
22 U.S.C. 29, 30, 37, and 42), no other fees or fair market
23 value assessments shall be applied to prospecting, explo-
24 ration, development, mining, processing, or reclamation,
25 and uses reasonably incident thereto.”.

1 (c) PATENT REQUIREMENTS.—Section 2325 of the
2 Revised Statutes (30 U.S.C. 29) is amended—

3 (1) in the second sentence by striking “, or at
4 any time” and inserting “shall include a processing
5 fee of \$2,500 for the first claim or site, and \$50 for
6 each additional claim contained therein, and at any
7 time”; and

8 (2) in the fourth sentence by inserting “and if
9 the applicant has complied with the law of dis-
10 covery” after “publication”.

11 (d) MINING DISTRICT REGULATIONS BY MINERS.—
12 Section 2324 of the Revised Statutes (30 U.S.C. 28) is
13 amended to read as follows:

14 “SEC. 2324. (a) AUTHORITY TO MAKE REGULA-
15 TIONS.—The miners of each mining district may make
16 regulations not in conflict with the laws of the United
17 States, or with the laws of the State or Territory in which
18 the district is situated, governing the location, manner of
19 recording, amount of work necessary to hold possession
20 of a mining claim, subject to the following requirements:

21 “(1) The location must be distinctly marked on
22 the ground so that its boundaries can be readily
23 traced.

24 “(2) All records of mining claims made after
25 May 10, 1872, shall contain the name or names of

1 the locators, the date of the location, and such a de-
2 scription of the claim or claims located by reference
3 to some natural object or permanent monument as
4 will identify the claim.

5 “(b) RECORDATION OF MINING CLAIMS AND ABAN-
6 DONMENT.—The locator of an unpatented lode or placer
7 mining claim, mill site, or tunnel site located after October
8 21, 1976, pursuant to the general mining law of the
9 United States shall, within 90 days after the date of loca-
10 tion of such claim, file in the office designated by the Sec-
11 retary of the Interior a copy of the official record of the
12 notice of location or certificate of location, including a de-
13 scription of the location of the mining claim or mill or
14 tunnel site sufficient to locate the claimed lands on the
15 ground. The failure to file such instruments as required
16 by this subsection is deemed conclusively to constitute an
17 abandonment of the mining claim, mill site, or tunnel site
18 by the owner. Such recordation by itself shall not render
19 valid any claim that would not be otherwise valid under
20 applicable law.

21 “(c) LOCATION FEE.—Notwithstanding any other
22 provision of law, for every mining claim, mill site, or tun-
23 nel site located after the date of the enactment of this
24 subsection pursuant to the general mining law of the
25 United States, the locator shall, at the time the location

1 notice is recorded pursuant to subsection (b), pay a loca-
2 tion fee of \$100 per claim. This fee shall be in addition
3 to the first year's claim maintenance fee required by sub-
4 section (d). Payment of the location fee required by this
5 subsection and the maintenance fee required by subsection
6 (d) secures to the locator the right to use and occupy the
7 public lands for purposes of the general mining law of the
8 United States.

9 “(d) SCHEDULE OF CLAIM MAINTENANCE FEES.—

10 (1) The holder of each unpatented mining claim, mill site,
11 or tunnel site located pursuant to the general mining law
12 of the United States on or after the date of the enactment
13 of this subsection shall pay to the Secretary of the Inte-
14 rior, on or before September 1 of each year, a claim main-
15 tenance fee per claim. Except as provided in paragraph
16 (2), such claim maintenance fee shall be paid in the fol-
17 lowing amounts:

18 “(A) \$35 per claim for each of the first through
19 fifth maintenance years, beginning with the year the
20 claim was recorded.

21 “(B) \$70 per claim for each of the sixth
22 through tenth maintenance years.

23 “(C) \$125 per claim for each of the eleventh
24 through fifteenth maintenance years.

1 “(D) \$150 per claim for the sixteenth mainte-
2 nance year and each year thereafter.

3 “(2) Notwithstanding any other provision of law, for
4 each unpatented mining claim located after the date of
5 enactment of this subsection pursuant to the general min-
6 ing law of the United States from which minerals are pro-
7 duced, and in lieu of the fee otherwise required by para-
8 graph (1), the holder shall pay to the Secretary of the
9 Interior an annual maintenance fee of \$200 per claim.

10 “(3) The holder of each unpatented mining claim,
11 mill site, or tunnel site located pursuant to the general
12 mining law of the United States before the date of enact-
13 ment of this subsection shall pay to the Secretary of the
14 Interior for such claim—

15 “(A) except as provided in subparagraph (B),
16 the claim maintenance fee that applied before such
17 date of enactment; or

18 “(B) the claim maintenance fee that applies
19 under paragraph (1) or (2), based on the number of
20 years since the original location of the claim, if be-
21 fore the date the payment is due the claim holder—

22 “(i) notifies the Secretary; and

23 “(ii) pays to the Secretary a transfer fee of
24 \$100.

1 “(e) ADJUSTMENT OF CLAIM MAINTENANCE
2 FEES.—Claim maintenance fees under subsection (d)
3 shall not be subject to adjustment.

4 “(f) WORK REQUIREMENT.—(1) The holder of each
5 unpatented mining claim, mill site, or tunnel site located
6 pursuant to the general mining law of the United States
7 after the date of enactment of this subsection, and any
8 holder of a claim that has transferred such claim to the
9 claim maintenance fee schedule under subsection (d), shall
10 conduct physical evaluation and development of the claim
11 or of any contiguous block of claims of which the claim
12 is a part. Exploration and mining activities conducted pur-
13 suant to a notice, approved plan of operations, or, in the
14 case of split estate lands, a comparable State or county
15 notice or approval, demonstrates compliance with this sec-
16 tion.

17 “(2) If physical evaluation of the claim is not carried
18 out in accordance with paragraph (1) before the end of
19 the fifth, tenth, or fifteenth maintenance year (beginning
20 with the maintenance year in which the claim is filed),
21 respectively, the claim holder shall be required to pay in
22 the next maintenance year the location fee described in
23 subsection (c), in addition to the annual claim mainte-
24 nance fee required to be paid for the next maintenance
25 year.

1 “(g) WAIVER OF CLAIM MAINTENANCE FEE AD-
2 JUSTMENTS AND WORK REQUIREMENT.—If a delay in
3 meeting the work requirements under subsection (f) is the
4 result of pending administrative proceedings, rights-of-
5 way disputes, or litigation concerning issuance or validity
6 of any permit or authorization required under Federal,
7 State, or local law for physical evaluation and development
8 of the claim—

9 “(1) any increase in the claim maintenance fee
10 that would otherwise apply under subsection (d) and
11 the work requirements under subsection (f) shall be
12 suspended for the claim; and

13 “(2) claim maintenance fees required to be paid
14 each year for the claim shall be the same as the fee
15 that applied for the year in which the delay first oc-
16 curred, and no additional location fee will be owed.

17 “(h) TIME OF PAYMENT.—The claim maintenance
18 fee required under subsection (d) for any maintenance
19 year shall be paid before the commencement of the mainte-
20 nance year, except that, for the maintenance year in which
21 the location is made the locator shall pay the claim main-
22 tenance fee and the location fee imposed under subsection
23 (c) at the time the location notice is recorded with the
24 Bureau of Land Management. The Director of the Bureau
25 of Land Management, after consultation with the Gov-

1 error of Alaska and by not later than 1 year after the
2 date of enactment of this subsection, may establish a claim
3 maintenance fee filing date for Alaska claim holders that
4 is not later than 60 days after September 1.

5 “(i) SMALL MINER CLAIM MAINTENANCE FEE.—(1)
6 In the case of a claim for which the holder certifies in
7 writing to the Secretary that, on the date the payment
8 of any claim maintenance fee under this section was due,
9 the claim holder and all related parties held not more than
10 10 mining claims, mill sites, or tunnel sites, or any com-
11 bination thereof, on public lands—

12 “(A) the claim maintenance fee shall be
13 \$25 per claim per year for the life of the claim
14 or site held by the claim holder; and

15 “(B) subsection (f) shall not apply.

16 “(2) In this subsection:

17 “(A) With respect to any claim holder, the term
18 ‘related party’ means—

19 “(i) the spouse and dependent children (as
20 defined in section 152 of the Internal Revenue
21 Code of 1986 (26 U.S.C. 152), as in effect on
22 the date of the enactment of this paragraph of
23 the claim holder; and

1 “(ii) a person who controls, is controlled
2 by, or is under common control with the claim
3 holder.

4 “(B) The terms ‘control’, ‘controls’, and ‘con-
5 trolled’ include actual control, legal control, and the
6 power to exercise control, through or by common di-
7 rectors, officers, stockholders, a voting trust, or a
8 holding company or investment company, or any
9 other means.

10 “(j) FAILURE TO PAY.—(1) Failure to pay a claim
11 maintenance fee or a location fee for an unpatented min-
12 ing claim as required by this section shall subject an
13 unpatented mining claim, mill site, or tunnel site to for-
14 feiture by the claim holder as provided in this subsection.

15 “(2) The Secretary of the Interior shall provide the
16 claim holder with notice of the failure and the opportunity
17 to cure within 45 calendar days after the claim holder’s
18 receipt of the notice.

19 “(3) The claim holder must, within such 45-day pe-
20 riod, pay twice the amount of maintenance fee that would
21 otherwise have been required to be timely paid. The Sec-
22 retary of the Interior shall specify the amount that must
23 be paid in the notice under paragraph (2).

24 “(4) Failure by the claim holder to make a timely
25 and proper payment in the amount specified in the notice

1 by the Secretary of the Interior, within 45 days after the
2 claim holder's receipt of the notice, shall constitute a for-
3 feiture of the mining claim, mill site, or tunnel site by the
4 claim holder by operation of law.

5 “(k) FAILURE OF CO-OWNER TO CONTRIBUTE.—
6 Upon the failure of any one of several co-owners of a claim
7 to contribute the co-owner's proportion of any claim main-
8 tenance fee required by this section, the co-owners who
9 have paid the claim maintenance fee, at the expiration of
10 the year in which any unpaid amount was due, may give
11 such delinquent co-owner personal notice in writing or no-
12 tice by publication in the newspaper of record for the
13 county in which the land that is subject to the claim or
14 mill site is located, at least once a week for 90 days. If
15 at the expiration of such 90-day period such delinquent
16 co-owner fails or refuses to contribute the co-owner's pro-
17 portion of the claim maintenance fee required by this sec-
18 tion, the co-owner's interest in the claim shall become the
19 property of the other co-owners who have paid the claim
20 maintenance fee. The co-owners who have assumed the in-
21 terest in the claims shall notify the Secretary of the Inte-
22 rior within 30 days of the assumption.

23 “(l) OIL SHALE CLAIMS SUBJECT TO CLAIM MAIN-
24 TENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—
25 This section shall not apply to any oil shale claim for

1 which a fee is required to be paid under section 2511(e)(2)
2 of the Energy Policy Act of 1992 (30 U.S.C. 242).

3 “(m) GENERAL MINING LAW OF THE UNITED
4 STATES DEFINED; RULE OF CONSTRUCTION.—(1) In this
5 section the term ‘general mining law of the United States’
6 means the provisions of law codified in chapters 2, 12,
7 12A, 15, and 16 of title 30, United States Code, and in
8 sections 161 and 162 of such title.

9 “(2) Subsections (b) and (c) shall be construed in ac-
10 cordance with judicial decisions under section 314 of the
11 Federal Land Policy and Management Act of 1976, as in
12 effect before the enactment of those subsections.”.

13 (e) CONFORMING AMENDMENTS.—

14 (1) The Federal Land Policy and Management
15 Act of 1976 is amended—

16 (A) by striking section 314 (43 U.S.C.
17 1744);

18 (B) in the table of contents preceding title
19 I by striking the item relating to section 314;
20 and

21 (C) in section 302(a) by striking “section
22 314, section 603,” and inserting “section 603”.

23 (2) Section 22 of the Alaska Native Claims Set-
24 tlement Act is amended by striking “and section 314

1 of the Federal Land Policy and Management Act of
2 1976 (43 U.S.C. 1744)”.
3

4 (3) Section 31(f) of the Mineral Leasing Act
5 (30 U.S.C. 188(f)) is amended by striking “section
6 314 of the Federal Land Policy and Management
7 Act of 1976 (43 U.S.C. 1744)” and inserting “sub-
8 sections (b) and (c) of section 2320 of the Revised
9 Statutes (30 U.S.C. 23)”.
10

11 (4) Section 2511(e) of the Energy Policy Act of
12 1992 (30 U.S.C. 242(e)) is amended by striking the
13 last sentence.
14

15 **SEC. 6202. PATENTS FOR MINING OR MILL SITE CLAIMS.**

16 (a) REPEAL OF LIMITATION ON USE OF FUNDS FOR
17 APPLICATIONS FOR PATENT.—Section 408(a) of the De-
18 partment of the Interior, Environment, and Related Agen-
19 cies Appropriations Act, 2006 (Public Law 109–54) is re-
20 pealed.
21

22 (b) PAYMENT AMOUNTS.—The Revised Statutes are
23 amended—
24

25 (1) in section 2325 (30 U.S.C. 29) by striking
“five dollars per acre” and inserting “\$1,000 per
acre or fair market value, whichever is greater”;

(2) in section 2326 (30 U.S.C. 30) by striking
“five dollars per acre” and inserting “\$1,000 per
acre or fair market value, whichever is greater”;

1 (3) in section 2333 (30 U.S.C. 37)—

2 (A) by striking “five dollars per acre” and
3 inserting “\$1,000 per acre or fair market value,
4 whichever is greater;” and

5 (B) by striking “two dollars and fifty cents
6 per acre” and inserting “\$1,000 per acre or fair
7 market value, whichever is greater”;

8 (4) in section 2337 (30 U.S.C. 42)—

9 (A) in subsection (a) by striking “made at
10 the same rate” and all that follows through the
11 end of that sentence and inserting “at the rate
12 of \$1,000 per acre or fair market value, which-
13 ever is greater.”; and

14 (B) in subsection (b) by striking “made at
15 the rate” and all that follows through the end
16 of that sentence and inserting “at the rate of
17 \$1,000 per acre or fair market value, whichever
18 is greater.”; and

19 (5) in section 2325 (30 U.S.C. 29) by adding
20 at the end the following: “For purposes of this sec-
21 tion and sections 2326, 2333, and 2337 of the Re-
22 vised Statutes, fair market value for the patenting
23 of mining claims or mill sites shall be determined by
24 appraisals prepared by an appraiser certified or
25 qualified under applicable professional criteria or

1 State law, in accordance with the Uniform Appraisal
2 Standards for Federal Land Acquisitions and the
3 Uniform Standards of Professional Appraisal Prac-
4 tice, submitted by the applicant for a patent to the
5 Secretary of the Interior upon application for patent,
6 that is completed within 120 days prior to submis-
7 sion of the application for patent.”.

8 (c) MINERAL DEVELOPMENT WORK REQUIRE-
9 MENTS.—Section 2325 of the Revised Statutes (30 U.S.C.
10 29) is amended—

11 (1) by striking “five hundred dollars’ ” and in-
12 serting “\$7,500”; and

13 (2) by striking “labor has been expended” and
14 inserting “mineral development work has been per-
15 formed”.

16 (d) PATENT APPLICANTS IN LIMBO.—If the holder
17 of an unpatented mining claim or mill site submitted an
18 application for a mineral patent and paid the patent serv-
19 ice charges required by regulation at the time the applica-
20 tion was submitted, and the Secretary of the Interior did
21 not complete all actions to process the application before
22 April 26, 1996, the holder of such claim may, at the hold-
23 er’s election, have such application processed under rules
24 that applied before the date of the enactment of this Act.

1 (e) ALTERNATIVE VALUABLE MINERAL DEPOSIT
2 CRITERIA.—Section 2325 of the Revised Statutes is fur-
3 ther amended by inserting “(a) MANNER FOR OBTAINING
4 PATENT, GENERALLY.—” before the first sentence, and
5 by adding at the end the following:

6 “(b) ALTERNATIVE VALUABLE MINERAL DEPOSIT
7 CRITERIA.—

8 “(1) CLAIMS SUBJECT TO ONGOING ACTIVI-
9 TIES.—The holder of an unpatented mining claim or
10 mill site who is conducting mining activities that
11 meet the definition of a mine under section 3(h) of
12 the Federal Mine Safety and Health Act of 1972
13 (30 U.S.C. 802(h)) and whose activities with respect
14 to that claim or site are described in section 4 of
15 such Act (30 U.S.C. 803) may receive a patent for
16 any unpatented mining claims on which mining ac-
17 tivities are occurring or any mill sites, within the
18 boundaries of an approved plan of operations or a
19 comparable State or county approval. Upon con-
20 firmation by the Secretary that minerals being
21 mined are locatable in accordance with Federal law
22 and that actual sales of minerals have taken place,
23 all Federal lands within those boundaries are eligible
24 for patent upon compliance with this section and

1 sections 2327 and 2329 of the Revised Statutes (30
2 U.S.C. 34, 35).

3 “(2) DISCLOSED CLAIMS AND MILL SITES.—

4 The holder of an unpatented mining claim or mill
5 site whose proven and probable reserves are publicly
6 disclosed in compliance with the Securities Act of
7 1933 (15 U.S.C. 77a) or the Securities Exchange
8 Act of 1934 (15 U.S.C. 78a) may receive a patent
9 for any such unpatented mining claim containing
10 such reserves or for any mill site within the bound-
11 aries of a plan of operations or a comparable State
12 or county approval for such reserves. All Federal
13 lands within those boundaries are eligible for patent
14 upon compliance with this section and sections 2327
15 and 2329 of the Revised Statutes (30 U.S.C. 34,
16 35).

17 “(c) MINERAL EXAMINATIONS.—

18 “(1) IN GENERAL.—In order to process patent
19 applications in a timely and responsible manner,
20 upon the request of a patent applicant, the Sec-
21 retary of the Interior shall allow the applicant to
22 fund a qualified third-party examiner from a list
23 maintained by the Bureau of Land Management to
24 conduct a mineral examination of the mining claims
25 or mill sites contained in a patent application as set

1 forth in this section and sections 2333 and 2337 of
2 the Revised Statutes (30 U.S.C. 37, 42). The Bu-
3 reau of Land Management shall have the sole re-
4 sponsibility to maintain the list of qualified third-
5 party examiners.

6 “(2) TRAINING.—The Director of the Bureau
7 of Land Management shall provide training in the
8 conduct of mineral examinations to qualified individ-
9 uals. The Director may charge fees to cover the
10 costs of the training.

11 “(3) QUALIFIED THIRD-PARTY EXAMINER DE-
12 FINED.—In this subsection the term ‘qualified third-
13 party examiner’ means a person who is a registered
14 geologist or registered professional mining engineer
15 licensed to practice within the State in which the
16 claims are located.

17 “(d) DISPOSITION OF PROCEEDS.—The gross pro-
18 ceeds of conveyances of land under this section and sec-
19 tions 2319, 2330, 2332, 2333, and 2337 of the Revised
20 Statutes (30 U.S.C. 22, 36, 37, 38, 42) shall be used as
21 follows:

22 “(1) 10 percent shall be deposited into the Fed-
23 eral Energy and Mineral Resource Professional De-
24 velopment Fund.

1 “(2) 20 percent shall be available to the Sec-
2 retary of the Army for use, through the Corps of
3 Engineers, for the Restoration of Abandoned Mine
4 Sites Program and section 560 of the Water Re-
5 sources Development Act of 1999.

6 “(3) 70 percent shall be deposited into the Gen-
7 eral Fund of the Treasury.

8 “(e) ISSUING PATENTS.—If no adverse claim has
9 been filed with the register and the receiver of the proper
10 land office at the expiration of the 60-day period begin-
11 ning on the date of publication of the notice that an appli-
12 cation for mineral patent has been filed under section
13 2325, 2333 and 2337 of the Revised Statutes (30 U.S.C.
14 29, 37, 42), the Secretary shall issue the patent not later
15 than 24 months after the date on which the application
16 for patent was filed.

17 “(f) SMALL MINER PATENT ADJUDICATION AND
18 MINERAL DEVELOPMENT WORK REQUIREMENTS.—The
19 holder of 10 claims or less who applies for a mineral pat-
20 ent under this section or a direct purchase under section
21 2319 of the Revised Statutes (30 U.S.C. 22) shall pay
22 one-fifth of the processing fees and perform one-fifth of
23 the mineral development work required under this section
24 and section 2319 (30 U.S.C. 22).”.

1 **SEC. 6203. MINERAL EXAMINATIONS FOR MINING ON CER-**
2 **TAIN LANDS.**

3 Section 302 of the Federal Land Policy and Manage-
4 ment Act of 1976 (43 U.S.C. 1732) is amended by adding
5 at the end the following:

6 “(e) The Secretary shall not require a mineral exam-
7 ination report, otherwise required to be prepared under
8 regulations promulgated pursuant to this Act, to approve
9 a plan of operations under such regulations for mining
10 claims and mill sites located on withdrawn lands if such
11 mining claims, mill sites, and blocks of such mining claims
12 and mill sites are contiguous to patented or unpatented
13 mining claims or mill sites where mineral development ac-
14 tivities, including mining, have been conducted as author-
15 ized by law or regulation.”.

16 **SEC. 6204. MINERAL DEVELOPMENT LANDS AVAILABLE**
17 **FOR PURCHASE.**

18 Section 2319 of the Revised Statutes (30 U.S.C. 22)
19 is amended—

20 (1) by inserting “(a) LANDS OPEN TO PUR-
21 CHASE BY CITIZENS.—” before the first sentence;
22 and

23 (2) by adding at the end the following:

24 “(b) AVAILABILITY FOR PURCHASE.—Notwith-
25 standing any other provision of law and in compliance with
26 subsection (c), the Secretary of the Interior shall make

1 mineral deposits and the lands that contain them, includ-
2 ing lands in which the valuable mineral deposit has been
3 depleted, available for purchase to facilitate sustainable
4 economic development. This subsection shall not apply
5 with respect to any unit of the National Park System, Na-
6 tional Wildlife Refuge System, National Wild and Scenic
7 Rivers System, or National Trails System, or to any Na-
8 tional Conservation Area, any National Recreation Area,
9 any National Monument, or any unit of the National Wil-
10 derness Preservation System.

11 “(c) APPLICATION.—The holder of mining claims,
12 mill sites, and blocks of such mining claims and mill sites
13 contiguous to patented or unpatented mining claims or
14 mill sites where mineral development activities, including
15 mining, have been conducted as authorized by law or regu-
16 lation and on which mineral development work has been
17 performed may apply to purchase Federal lands that are
18 subject to the claims. The filing of the proper application
19 shall include such processing fees as are required by sec-
20 tion 2325 of the Revised Statutes (30 U.S.C. 29). The
21 applicant or applicants, or their predecessors must present
22 evidence of mineral development work performed on the
23 Federal lands identified and submitted for purchase. Min-
24 eral development work upon aggregation must average not

1 less than \$7,500 per mining claim or mill site within the
2 Federal lands identified and applied for.

3 “(d) LAND SURVEYS.—For the purpose of this sec-
4 tion, and notwithstanding section 2334 of the Revised
5 Statutes (30 U.S.C. 39), land surveys of the Federal lands
6 applied for shall be paid for by the applicant and shall
7 be completed either by a land surveyor registered in the
8 State where the land is situated, or by such a surveyor
9 also designated by the Bureau of Land Management as
10 a mineral surveyor, if such mineral surveyors are avail-
11 able, willing, and able to complete such surveys without
12 delay at a cost comparable to the charges of ordinary reg-
13 istered land surveyors.

14 “(e) DEADLINE FOR CONVEYANCE; PRICE.—Not-
15 withstanding any other provision of law, and not later
16 than one year after the date of the approval of any survey
17 required under subsection (d), the Secretary of the Inte-
18 rior shall convey to the applicant, in return for a payment
19 of \$1,000 per acre or fair market value, whichever is
20 greater, all right, title, and interest in and to the Federal
21 land, subject to valid existing rights and the terms and
22 conditions of the Act of August 30, 1890 (26 Stat. 391).
23 For purposes of this subsection, fair market value for min-
24 eral development lands available for purchase shall be de-
25 termined by appraisals prepared by an appraiser certified

1 or qualified under applicable professional criteria or State
2 law, in accordance with the Uniform Appraisal Standards
3 for Federal Land Acquisitions and the Uniform Standards
4 of Professional Appraisal Practice, submitted by the appli-
5 cant to the Secretary of the Interior upon application for
6 purchase, that is completed within 120 days prior to sub-
7 mission of the application. Fair market value for the inter-
8 est in the land owned by the United States shall be exclu-
9 sive of, and without regard to, the mineral deposits in the
10 land or the use of such land for mineral activities.

11 “(f) ENVIRONMENTAL LIABILITY.—Notwithstanding
12 any other Federal, State or local law, the United States
13 shall not be responsible for—

14 “(1) investigating or disclosing the condition of
15 any property to be conveyed under this section; and

16 “(2) environmental remediation, waste manage-
17 ment, or environmental compliance activities arising
18 from its ownership, occupancy, or management of
19 land and interests therein conveyed under this sec-
20 tion with respect to conditions existing at or on the
21 land at the time of the conveyance.

22 “(g) MINERAL DEVELOPMENT WORK DEFINED.—In
23 this section the term ‘mineral development work’ means
24 geologic, geochemical or geophysical surveys; road build-
25 ing; exploration drilling, trenching, and exploratory sam-

1 pling by any other means; construction of underground
2 workings for the purpose of conducting exploration; mine
3 development work; mineral production from underground
4 or surface mines; environmental baseline studies; con-
5 struction of environmental protection and monitoring sys-
6 tems; environmental reclamation; construction of power
7 and water distribution facilities; engineering, metallur-
8 gical, geotechnical, and economic feasibility studies; land
9 surveys; and any other work reasonably incident to min-
10 eral development.”.

11 **SEC. 6205. NATIONAL MINING AND MINERALS POLICY TO**
12 **ENCOURAGE AND PROMOTE THE PRODUC-**
13 **TIVE SECOND USE OF LANDS.**

14 Section 101 of the Mining and Minerals Policy Act
15 of 1970 (30 U.S.C. 21a) is amended—

16 (1) in the first sentence—

17 (A) in clause (2) by inserting “including
18 through reining where appropriate” after
19 “needs,”;

20 (B) in clause (3) by striking “and” after
21 the comma at the end; and

22 (C) by striking the period at the end and
23 inserting the following: “, and (5) facilitate the
24 productive second use of lands used for mining
25 and energy production.”;

1 (2) in the second sentence by striking “oil shale
2 and uranium” and inserting “oil shale, and uranium,
3 whether located onshore or offshore”; and

4 (3) in the third sentence—

5 (A) by striking “the Secretary of the Inte-
6 rior” and inserting “the head of each Federal
7 department and of each independent agency”;
8 and

9 (B) by striking “his”.

10 **SEC. 6206. REGULATIONS.**

11 The Secretary of the Interior shall issue final regula-
12 tions implementing this subtitle by not later than 180 days
13 after the date of the enactment of this Act.

14 **SEC. 6207. PROTECTION OF NATIONAL PARKS AND WILDER-**
15 **NESS AREAS.**

16 Subject to valid existing rights, nothing in sections
17 6202, 6203, 6204, 6205, and 6206 of this subtitle shall
18 be construed as affecting any lands within the boundary
19 of any unit of the National Park System, National Wildlife
20 Refuge System, National Wild and Scenic Rivers System,
21 or National Trails System, or any National Conservation
22 Area, any National Recreation Area, any National Monu-
23 ment, or any unit of the National Wilderness Preservation
24 System as of the date of the enactment of this Act.

1 **Subtitle C—Disposal of Public**
2 **Lands**

3 **CHAPTER 1—DISPOSAL OF CERTAIN**
4 **PUBLIC LANDS IN NEVADA**

5 **SEC. 6301. SHORT TITLE.**

6 This chapter may be cited as the “Northern Nevada
7 Sustainable Development in Mining Act”.

8 **SEC. 6302. DEFINITIONS.**

9 In this chapter:

10 (1) CLAIMANT.—The term “Claimant” means
11 Coeur Rochester, Inc.

12 (2) COUNTY.—The term “County” means Per-
13 shing County, Nevada.

14 (3) GENERAL MINING LAW.—The term “general
15 mining law” means the provisions of law codified in
16 chapters 2, 12, 12A, 15, and 16 of title 30, United
17 States Code, and in sections 161 and 162 of such
18 title.

19 (4) SECRETARY.—The term “Secretary” means
20 the Secretary of the Interior.

21 **SEC. 6303. LAND CONVEYANCE.**

22 (a) CONVEYANCE OF LAND.—Notwithstanding any
23 other provision of law, and not later than 90 days after
24 the date of the enactment of this Act, the Secretary shall
25 convey to the Claimant, in return for a payment of \$500

1 per acre, all right, title, and interest, subject to the terms
2 and conditions of subsection (c), in the approximately
3 7,000 acres of Federal lands subject to Claimant's mining
4 claims maintained under the general mining law and de-
5 picted on the Rochester Sustainable Development Project
6 map on file with the Committee on Resources of the House
7 of Representatives.

8 (b) EXEMPTION FROM REVIEW, ETC.—Any convey-
9 ance of land under this chapter is not subject to review,
10 consultation, or approval under any other Federal law.

11 (c) TERMS AND CONDITIONS OF CONVEYANCE.—

12 (1) NO IMPACT ON LEGAL OBLIGATIONS.—Con-
13 veyance of the lands pursuant to subsection (a) shall
14 not affect Claimant's legal obligations to comply
15 with applicable Federal mine closure or mine land
16 reclamation laws, or with any other applicable Fed-
17 eral or State requirement relating to closure of the
18 Rochester Mine and use of the land comprising such
19 mine, including any requirement to prepare any en-
20 vironmental impact statement under the National
21 Environmental Policy Act of 1969. Federal reclama-
22 tion and closure obligations shall not be construed to
23 require removal of infrastructure identified by
24 Claimant as being usable by a post-mining land use.

1 (2) TITLE TO MATERIALS AND MINERALS.—

2 Notwithstanding any other provision of law, Claim-
3 ant shall own and have title to all spent ore, waste
4 rock and tailings, and other materials located on
5 lands conveyed pursuant to subsection (a).

6 (3) VALID EXISTING RIGHTS.—All lands con-
7 veyed pursuant to subsection (a) shall be subject to
8 valid existing rights existing as of the date of trans-
9 fer of title, and Claimant shall succeed to the rights
10 and obligations of the United States with respect to
11 any mining claim, mill site claim, lease, right-of-way,
12 permit, or other valid existing right to which the
13 property is subject.

14 (4) ENVIRONMENTAL LIABILITY.—Notwith-
15 standing any other Federal, State or local law, the
16 United States shall not be responsible for—

17 (A) investigating or disclosing the condi-
18 tion of any property to be conveyed under this
19 chapter; and

20 (B) environmental remediation, waste
21 management, or environmental compliance ac-
22 tivities arising from its ownership, occupancy,
23 or management of land and interests therein
24 conveyed under this chapter with respect to

1 conditions existing at or on the land at the time
2 of the conveyance.

3 **SEC. 6304. DISPOSITION OF PROCEEDS.**

4 The gross proceeds of conveyances of land under this
5 chapter shall be used as follows:

6 (1) Such sums as are necessary shall be used
7 to cover 100 percent of the administrative costs, not
8 to exceed \$20,000, incurred by the Nevada State Of-
9 fice and the Winnemucca Field Office of the Bureau
10 of Land Management in conducting the conveyance
11 under this chapter.

12 (2) \$500,000 shall be paid directly to the State
13 of Nevada for use in the State's abandoned mined
14 land program.

15 (3) \$100,000 shall be paid directly to Pershing
16 County, Nevada.

17 (4) Proceeds remaining after the payments pur-
18 suant to paragraphs (1) through (3) shall be depos-
19 ited in the general fund of the Treasury.

20 **CHAPTER 2—DISPOSAL OF CERTAIN**
21 **PUBLIC LANDS IN IDAHO**

22 **SEC. 6311. SHORT TITLE.**

23 This chapter may be cited as the “Central Idaho Sus-
24 tainable Development in Mining Act”.

1 **SEC. 6312. DEFINITIONS.**

2 In this chapter:

3 (1) CLAIMANT.—The term “Claimant” means
4 TDS LLC, an affiliated company of L&W Stone
5 Corporation.

6 (2) COUNTY.—The term “County” means Cus-
7 ter County, Idaho.

8 (3) GENERAL MINING LAW.—The term “general
9 mining law” means the provisions of law codified in
10 chapters 2, 12A, 15, and 16 of title 30, United
11 States Code, and in sections 161 and 162 of such
12 title.

13 (4) SECRETARY.—The term “Secretary” means
14 the Secretary of the Interior.

15 **SEC. 6313. LAND CONVEYANCE.**

16 (a) CONVEYANCE OF LAND.—Notwithstanding any
17 other provision of law, and not later than 90 days after
18 the date of the enactment of this Act, the Secretary shall
19 convey to the Claimant, in return for a payment of \$1,000
20 per acre, all right, title, and interest, subject to the terms
21 and conditions of subsection (c), in the approximately
22 519.7 acres of Federal lands subject to Claimant’s mining
23 claims maintained under the general mining law and de-
24 picted as “proposed land exchange alignment” on the Cen-
25 tral Idaho Sustainable Development Project map on file

1 with the Committee on Resources of the House of Rep-
2 resentatives.

3 (b) EXEMPTION FROM REVIEW, ETC.—Any convey-
4 ance of land under this chapter is not subject to review,
5 consultation, or approval under any other Federal law.

6 (c) TERMS AND CONDITIONS OF CONVEYANCE.—

7 (1) TRANSFER OF FEE TITLE IN FEDERAL
8 LANDS.—Notwithstanding any other provision of
9 law, full fee title in approximately 519.7 acres of
10 Federal lands described in subsection (a) shall be
11 transferred to Claimant as depicted as “proposed
12 land exchange alignment” on the Central Idaho Sus-
13 tainable Development Project map.

14 (2) VALID EXISTING RIGHTS.—All lands con-
15 veyed pursuant to subsection (a) shall be subject to
16 valid existing rights existing as of the date of trans-
17 fer of title, and Claimant shall succeed to the rights
18 and obligations of the United States with respect to
19 any mining claim, mill site claim, lease, right-of-way,
20 permit, or other valid existing right to which the
21 property is subject.

22 (3) ENVIRONMENTAL LIABILITY.—Notwith-
23 standing any other Federal, State, or local law, the
24 United States shall not be responsible for—

1 (A) investigating or disclosing the condi-
2 tion of any property to be conveyed under this
3 chapter; and

4 (B) environmental remediation, waste
5 management, or environmental compliance ac-
6 tivities arising from its ownership, occupancy,
7 or management of land and interests therein
8 conveyed under this chapter with respect to
9 conditions existing at or on the land at the time
10 of the conveyance.

11 **SEC. 6314. DISPOSITION OF PROCEEDS.**

12 Within one year of the completion of the conveyance
13 under this chapter, the gross proceeds of the conveyance
14 shall be used as follows:

15 (1) Such sums as are necessary shall be used
16 to cover 100 percent of the administrative costs, not
17 to exceed \$15,000, incurred by the Idaho State Of-
18 fice and the Challis Field Office of the Bureau of
19 Land Management in conducting conveyances under
20 this chapter.

21 (2) \$200,000 shall be paid directly to the State
22 of Idaho for use in the State Parks program.

23 (3) \$200,000 shall be paid directly to Custer
24 County, Idaho.

1 (4) Proceeds remaining after the payments pur-
2 suant to paragraphs (1) through (3) shall be depos-
3 ited in the general fund of the Treasury.

4 **Subtitle D—Oil Shale**

5 **SEC. 6401. OIL SHALE AND TAR SANDS AMENDMENTS.**

6 (a) COMMERCIAL LEASING OF OIL SHALE AND TAR
7 SANDS.—Section 369(e) of the Energy Policy Act of 2005
8 (Public Law 109–58) is amended to read as follows:

9 “(e) COMMENCEMENT OF COMMERCIAL LEASING OF
10 OIL SHALE AND TAR SAND.—Not later than 365 days
11 after publication of the final regulation required by sub-
12 section (d), the Secretary shall hold the first oil shale and
13 tar sands lease sales under the regulation, offering for
14 lease a minimum of 35 percent of the Federal lands that
15 are geologically prospective for oil shale and tar sands
16 within Colorado, Utah, and Wyoming. The environmental
17 impact statement developed in support of the commercial
18 leasing program for oil shale and tar sands as required
19 by subsection (c) is deemed to provide adequate environ-
20 mental analysis for all oil shale and tar sands lease sales
21 conducted within the first 10 years after promulgation of
22 the regulation, and such sales shall not be subject to fur-
23 ther environmental analysis.”.

24 (b) REPEAL OF REQUIREMENT TO ESTABLISH PAY-
25 MENTS.—Section 369(o) of the Energy Policy Act of 2005

1 (Public Law 109–58; 119 Stat. 728; 42 U.S.C. 15927)
2 is repealed.

3 (c) TREATMENT OF REVENUES.—Section 21 of the
4 Mineral Leasing Act (30 U.S.C. 241) is amended by add-
5 ing at the end the following:

6 “(e) REVENUES.—

7 “(1) IN GENERAL.—Notwithstanding the provi-
8 sions of section 35, all revenues received from and
9 under an oil shale or tar sands lease shall be dis-
10 posed of as provided in this subsection.

11 “(2) ROYALTY RATES FOR COMMERCIAL
12 LEASES.—

13 “(A) INITIAL PRODUCTION.—For the first
14 10 years after initial production under each oil
15 shale or tar sands lease issued under the com-
16 mercial leasing program established under sub-
17 section (d), the Secretary shall set the royalty
18 rate at not less than 1 percent nor more than
19 3 percent of the gross value of production.
20 However, the initial production period royalty
21 rate set by the Secretary shall not apply to pro-
22 duction occurring more than 15 years after the
23 date of issuance of the lease.

24 “(B) SUBSEQUENT PERIODS.—After the
25 periods of time specified in subparagraph (A),

1 the Secretary shall set the royalty rate on each
2 oil shale or tar sands lease issued under the
3 commercial leasing program established under
4 subsection (d) at not less than 6 percent nor
5 more than 9 percent of the gross value of pro-
6 duction.

7 “(C) REDUCTION.—The Secretary shall re-
8 duce any royalty otherwise required to be paid
9 under subparagraphs (A) and (B) under any oil
10 shale or tar sands lease on a sliding scale based
11 upon market price, with a 10 percent reduction
12 if the monthly average price of NYMEX West
13 Texas Intermediate crude oil at Cushing, Okla-
14 homa, (WTI) drops below \$50 (in 2005 dollars)
15 for the month in which the production is sold,
16 and an 80 percent reduction if the monthly av-
17 erage price of WTI drops below \$30 (in 2005
18 dollars) for the month in which the production
19 is sold.

20 “(3) DISPOSITION OF REVENUES.—

21 “(A) DEPOSIT.—The Secretary shall de-
22 posit into a separate account in the Treasury
23 all revenues derived from any oil shale or tar
24 sands lease.

1 “(B) ALLOCATIONS TO STATES AND LOCAL
2 POLITICAL SUBDIVISIONS.—The Secretary shall
3 allocate 50 percent of the revenues deposited
4 into the account established under subpara-
5 graph (A) to the State within the boundaries of
6 which the leased lands are located, with a por-
7 tion of that to be paid directly by the Secretary
8 to the State’s local political subdivisions as pro-
9 vided in this paragraph.

10 “(C) TRANSMISSION OF ALLOCATIONS.—

11 “(i) IN GENERAL.—Not later than the
12 last business day of the month after the
13 month in which the revenues were received,
14 the Secretary shall transmit—

15 “(I) to each State two-thirds of
16 such State’s allocations under sub-
17 paragraph (B), and in accordance
18 with clauses (ii) and (iii) to certain
19 county-equivalent and municipal polit-
20 ical subdivisions of such State a total
21 of one-third of such State’s allocations
22 under subparagraph (B), together
23 with all accrued interest thereon; and

24 “(II) the remaining balance of
25 such revenues deposited into the ac-

1 count that are not allocated under
2 subparagraph (B), together with in-
3 terest thereon, shall be transmitted to
4 the miscellaneous receipts account of
5 the Treasury, except that until a lease
6 has been in production for 10 years
7 80 percent of such remaining balance
8 derived from a lease shall be paid in
9 accordance with subclause (I).

10 “(ii) ALLOCATIONS TO CERTAIN
11 COUNTY-EQUIVALENT POLITICAL SUBDIVI-
12 SIONS.—The Secretary shall under clause
13 (i)(I) make equitable allocations of the rev-
14 enues to county-equivalent political sub-
15 divisions that the Secretary determines are
16 closely associated with the leasing and pro-
17 duction of oil shale and tar sands, under a
18 formula that the Secretary shall determine
19 by regulation.

20 “(iii) ALLOCATIONS TO MUNICIPAL
21 POLITICAL SUBDIVISIONS.—The initial al-
22 location to each county-equivalent political
23 subdivision under clause (ii) shall be fur-
24 ther allocated to the county-equivalent po-
25 litical subdivision and any municipal polit-

1 ical subdivisions located partially or wholly
2 within the boundaries of the county-equiva-
3 lent political subdivision on an equitable
4 basis under a formula that the Secretary
5 shall determine by regulation.

6 “(D) INVESTMENT OF DEPOSITS.—The de-
7 posits in the Treasury account established
8 under this section shall be invested by the Sec-
9 retary of the Treasury in securities backed by
10 the full faith and credit of the United States
11 having maturities suitable to the needs of the
12 account and yielding the highest reasonably
13 available interest rates as determined by the
14 Secretary of the Treasury.

15 “(E) USE OF FUNDS.—A recipient of
16 funds under this subsection may use the funds
17 for any lawful purpose as determined by State
18 law. Funds allocated under this subsection to
19 States and local political subdivisions may be
20 used as matching funds for other Federal pro-
21 grams without limitation. Funds allocated to
22 local political subdivisions under this subsection
23 may not be used in calculation of payments to
24 such local political subdivisions under programs

1 for payments in lieu of taxes or other similar
2 programs.

3 “(F) NO ACCOUNTING REQUIRED.—No re-
4 cipient of funds under this subsection shall be
5 required to account to the Federal Government
6 for the expenditure of such funds, except as
7 otherwise may be required by law.

8 “(4) DEFINITIONS.—In this subsection:

9 “(A) COUNTY-EQUIVALENT POLITICAL
10 SUBDIVISION.—The term ‘county-equivalent po-
11 litical subdivision’ means a political jurisdiction
12 immediately below the level of State govern-
13 ment, including a county, parish, borough in
14 Alaska, independent municipality not part of a
15 county, parish, or borough in Alaska, or other
16 equivalent subdivision of a State.

17 “(B) MUNICIPAL POLITICAL SUBDIVI-
18 SION.—The term ‘municipal political subdivi-
19 sion’ means a municipality located within and
20 part of a county, parish, borough in Alaska, or
21 other equivalent subdivision of a State.”.

Subtitle E—Ocean Energy Resources

SEC. 6501. SHORT TITLE.

This subtitle may be cited as the “Ocean State Options Act of 2005”.

SEC. 6502. POLICY.

It is the policy of the United States that—

(1) Adjacent States are required by the circumstances to commit significant resources in support of exploration, development, and production activities for mineral resources on the outer Continental Shelf, and it is fair and proper for a portion of the receipts from such activities to be shared with Adjacent States and their local coastal governments;

(2) the existing laws governing the leasing and production of the mineral resources of the outer Continental Shelf have reduced the production of mineral resources, have preempted Adjacent States from being sufficiently involved in the decisions regarding the allowance of mineral resource development, and have been harmful to the national interest;

(3) the national interest is served by granting the Adjacent States more options related to whether

1 or not mineral leasing should occur in the outer
2 Continental Shelf within their Adjacent Zones;

3 (4) it is not reasonably foreseeable that explo-
4 ration of a leased tract located more than 25 miles
5 seaward of the coastline, development and produc-
6 tion of a natural gas discovery located more than 25
7 miles seaward of the coastline, or development and
8 production of an oil discovery located more than 50
9 miles seaward of the coastline will adversely affect
10 resources near the coastline;

11 (5) transportation of oil from a leased tract
12 might reasonably be foreseen, under limited cir-
13 cumstances, to have the potential to adversely affect
14 such resources if the oil is within 50 miles of the
15 coastline, but such potential to adversely affect such
16 resources is likely no greater, and probably less,
17 than the potential impacts from tanker transpor-
18 tation because tanker spills usually involve large re-
19 leases of oil over a brief period of time; and

20 (6) among other bodies of inland waters, the
21 Great Lakes, Long Island Sound, Delaware Bay,
22 Chesapeake Bay, Albemarle Sound, San Francisco
23 Bay, and Puget Sound are not part of the outer
24 Continental Shelf, and are not subject to leasing by
25 the Federal Government for the exploration, develop-

1 ment, and production of any mineral resources that
2 might lie beneath them.

3 **SEC. 6503. DEFINITIONS UNDER THE OUTER CONTINENTAL**
4 **SHELF LANDS ACT.**

5 Section 2 of the Outer Continental Shelf Lands Act
6 (43 U.S.C. 1331) is amended—

7 (1) by amending paragraph (f) to read as fol-
8 lows:

9 “(f) The term ‘affected State’ means the Adjacent
10 State.”;

11 (2) by striking the semicolon at the end of each
12 of paragraphs (a) through (o) and inserting a pe-
13 riod;

14 (3) by striking “; and” at the end of paragraph
15 (p) and inserting a period;

16 (4) by adding at the end the following:

17 “(r) The term ‘Adjacent State’ means, with respect
18 to any program, plan, lease sale, leased tract or other ac-
19 tivity, proposed, conducted, or approved pursuant to the
20 provisions of this Act, any State the laws of which are
21 declared, pursuant to section 4(a)(2), to be the law of the
22 United States for the portion of the outer Continental
23 Shelf on which such program, plan, lease sale, leased tract
24 or activity appertains or is, or is proposed to be, con-
25 ducted. For purposes of this paragraph, the term ‘State’

1 includes Puerto Rico and the other Territories of the
2 United States.

3 “(s) The term ‘Adjacent Zone’ means, with respect
4 to any program, plan, lease sale, leased tract, or other ac-
5 tivity, proposed, conducted, or approved pursuant to the
6 provisions of this Act, the portion of the outer Continental
7 Shelf for which the laws of a particular Adjacent State
8 are declared, pursuant to section 4(a)(2), to be the law
9 of the United States.

10 “(t) The term ‘miles’ means statute miles.

11 “(u) The term ‘coastline’ has the same meaning as
12 the term ‘coast line’ as defined in section 2(c) of the Sub-
13 merged Lands Act (43 U.S.C. 1301(c)).

14 “(v) The term ‘Neighboring State’ means a coastal
15 state having a common boundary at the coastline with the
16 Adjacent State; and”.

17 (5) in paragraph (a), by inserting after “con-
18 trol” the following: “or lying within the United
19 States exclusive economic zone adjacent to the Terri-
20 tories of the United States”.

21 **SEC. 6504. DETERMINATION OF ADJACENT ZONES AND**
22 **PLANNING AREAS.**

23 Section 4(a)(2)(A) of the Outer Continental Shelf
24 Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended in the
25 first sentence by striking “, and the President” and all

1 that follows through the end of the sentence and inserting
2 the following: “. The lines extending seaward and defining
3 each State’s Adjacent Zone, and each OCS Planning Area,
4 are as indicated on the maps for each outer Continental
5 Shelf region entitled ‘Alaska OCS Region State Adjacent
6 Zone and OCS Planning Areas’, ‘Pacific OCS Region
7 State Adjacent Zones and OCS Planning Areas’, ‘Gulf of
8 Mexico OCS Region State Adjacent Zones and OCS Plan-
9 ning Areas’, and ‘Atlantic OCS Region State Adjacent
10 Zones and OCS Planning Areas’, all of which are dated
11 September 2005 and on file in the Office of the Director,
12 Minerals Management Service.”.

13 **SEC. 6505. ADMINISTRATION OF LEASING.**

14 Section 5 of the Outer Continental Shelf Lands Act
15 (43 U.S.C. 1334) is amended by adding at the end the
16 following:

17 “(k) VOLUNTARY PARTIAL RELINQUISHMENT OF A
18 LEASE.—Any lessee of a producing lease may relinquish
19 to the Secretary any portion of a lease that the owner has
20 no interest in producing and that the Secretary finds is
21 geologically prospective. In return for any such relinquis-
22 ment, the Secretary shall provide to the owner a royalty
23 incentive in accordance with regulations promulgated by
24 the Secretary to carry out this subsection. The Secretary
25 shall publish final regulations implementing this sub-

1 section within 365 days after the date of the enactment
2 of the Ocean State Options Act of 2005.

3 “(1) NATURAL GAS LEASE REGULATIONS.—Not later
4 than October 1, 2006, the Secretary shall publish a final
5 regulation that shall—

6 “(1) establish procedures for entering into nat-
7 ural gas leases;

8 “(2) ensure that natural gas leases are only
9 available for tracts on the outer Continental Shelf
10 that are wholly within 125 miles of the coastline
11 within an area withdrawn from disposition by leas-
12 ing on the day after the date of enactment of the
13 Ocean State Options Act of 2005;

14 “(3) provide that natural gas leases shall con-
15 tain the same rights and obligations established for
16 oil and gas leases, except as otherwise provided in
17 the Ocean State Options Act of 2005;

18 “(4) provide that, in reviewing the adequacy of
19 bids for natural gas leases, the value of any crude
20 oil estimated to be contained within any tract shall
21 be excluded;

22 “(5) provide that any crude oil produced from
23 a well and reinjected into the leased tract shall not
24 be subject to payment of royalty, and that the Sec-
25 retary shall consider, in setting the royalty rates for

1 a natural gas lease, the additional cost to the lessee
2 of not producing any crude oil; and

3 “(6) provide that any Federal law that applies
4 to an oil and gas lease on the outer Continental
5 Shelf shall apply to a natural gas lease unless other-
6 wise clearly inapplicable.”.

7 **SEC. 6506. GRANT OF LEASES BY SECRETARY.**

8 Section 8 of the Outer Continental Shelf Lands Act
9 (43 U.S.C. 1337) is amended—

10 (1) in subsection (a)(1) by inserting after the
11 first sentence the following: “Further, the Secretary
12 may grant natural gas leases in a manner similar to
13 the granting of oil and gas leases and under the var-
14 ious bidding systems available for oil and gas
15 leases.”;

16 (2) by adding at the end of subsection (b) the
17 following:

18 “The Secretary may issue more than one lease for a given
19 tract if each lease applies to a separate and distinct range
20 of vertical depths, horizontal surface area, or a combina-
21 tion of the two. The Secretary may issue regulations that
22 the Secretary determines are necessary to manage such
23 leases consistent with the purposes of this Act.”.

24 (3) in subsection (p)(2)(B)—

1 (A) by striking “27” and inserting “50”;

2 and

3 (B) by striking “15” and inserting “200”;

4 (4) by adding at the end the following:

5 “(q) NATURAL GAS LEASES.—

6 “(1) RIGHT TO PRODUCE NATURAL GAS.—A
7 lessee of a natural gas lease shall have the right to
8 produce the natural gas from a natural gas leased
9 tract if the Secretary estimates that the discovered
10 field has at least 40 percent of the economically re-
11 coverable Btu content of the field contained within
12 natural gas and such natural gas is economical to
13 produce.

14 “(2) RIGHT TO PRODUCE CRUDE OIL.—A lessee
15 of a natural gas lease may produce crude oil from
16 the lease unless the Governor and the legislature of
17 the Adjacent State object to such production within
18 180 days after receipt of written notice from the les-
19 see of intent to produce crude oil from the lease. If
20 the leased tract is located within 50 miles of the
21 nearest point on the coastline of a Neighboring
22 State, the Governor and legislature of the Neigh-
23 boring State shall also receive such notice and have
24 the right to object to such production within 180
25 days after receipt of such notice.

1 “(3) ESTIMATES OF BTU CONTENT.—The Sec-
2 retary shall make estimates of the natural gas Btu
3 content of discovered fields on a natural gas lease
4 only after the completion of at least one exploration
5 well, the data from which has been tied to the re-
6 sults of a three-dimensional seismic survey of the
7 field. The Secretary may not require the lessee to
8 further delineate any discovered field prior to mak-
9 ing such estimates.

10 “(4) TRANSPORTATION OF CRUDE OIL.—If an
11 Adjacent State or any applicable Neighboring State
12 does not object to production of crude oil from a
13 natural gas lease, the lessee shall be permitted to
14 transport the crude oil from the leased tract through
15 Adjacent State waters, and Neighboring State wa-
16 ters if applicable, to facilities onshore in the Adja-
17 cent State, and Neighboring State if applicable, un-
18 less the lessee agreed to other arrangements with
19 the Adjacent State or Neighboring State, or both.

20 “(5) REPURCHASE OF CERTAIN NATURAL GAS
21 LEASES.—Upon request of the lessee and certifi-
22 cation by the Secretary of the Interior that a natural
23 gas lease contains all or part of a commercial oil and
24 gas discovery that is not allowed to be produced be-
25 cause it does not meet the standard set in paragraph

1 (1), the Secretary of the Treasury shall repurchase
2 the lease by issuance of a check or electronic pay-
3 ment from OCS Receipts to the lessee in full com-
4 pensation for the repurchase. The Secretary shall re-
5 coup from the State and local governments any
6 funds previously shared with them that were derived
7 from the repurchased lease. Such recoupment shall
8 only be from the State and local governments'
9 shares of OCS receipts that are payable after the
10 date of repurchase.

11 “(6) AMOUNT OF COMPENSATION.—Repurchase
12 compensation for each lease repurchased under the
13 authority of this section shall be in the amount of
14 the lesser of the original bonus bid paid for the lease
15 or, if the lessee is not the original lessee, the com-
16 pensation paid by the current lessee to obtain its in-
17 terest in the lease. In addition, the lessee shall be
18 compensated for any expenses directly attributable
19 to the lease that the lessee incurs after acquisition
20 of its interest in the lease to be repurchased, includ-
21 ing rentals, seismic acquisition costs, drilling costs,
22 and other reasonable expenses on the lease, includ-
23 ing expenses incurred in the repurchase process, to
24 the extent that the lessee has not previously been
25 compensated by the United States for such expenses.

1 The lessee shall not be compensated for general
2 overhead expenses or employee salaries.

3 “(7) PRIORITY RIGHT TO OBTAIN FUTURE OIL
4 AND GAS LEASE.—The lessee, or a designee of the
5 lessee, of a repurchased natural gas leased tract
6 shall have the right to repurchase such tract as an
7 oil and gas lease, on a noncompetitive basis, by re-
8 paying the amount received by the lessee if the tract
9 is made available for lease under an oil and gas
10 lease within 30 years after the repurchase.

11 “(8) DEFINITION OF NATURAL GAS.—For pur-
12 poses of a natural gas lease, natural gas means nat-
13 ural gas and all substances produced in association
14 with gas, including, but not limited to, hydrocarbon
15 liquids (other than crude oil) that are obtained by
16 the condensation of hydrocarbon vapors and sepa-
17 rate out in liquid form from the produced gas
18 stream.

19 “(r) REMOVAL OF RESTRICTIONS ON JOINT BIDDING
20 IN CERTAIN AREAS OF THE OUTER CONTINENTAL
21 SHELF.—Restrictions on joint bidders shall no longer
22 apply to tracts located in the Alaska OCS Region. Such
23 restrictions shall not apply to tracts in other OCS regions
24 determined to be ‘frontier tracts’ or otherwise ‘high cost
25 tracts’ under final regulations that shall be published by

1 the Secretary by not later than 365 days after the date
2 of the enactment of the Ocean State Options Act of
3 2005.”;

4 (5) by striking subsection (a)(3)(A) and redesi-
5 gnating the subsequent subparagraphs as subpara-
6 graphs (A) and (B), respectively;

7 (6) in subsection (a)(3)(A) (as so redesignated)
8 by striking “In the Western” and all that follows
9 through “the Secretary” the first place it appears
10 and inserting “The Secretary”; and

11 (7) effective October 1, 2013, in subsection
12 (g)—

13 (A) by striking all after “(g)”, except para-
14 graph (3);

15 (B) by striking the last sentence of para-
16 graph (3); and

17 (C) by striking “(3)”.

18 **SEC. 6507. DISPOSITION OF RECEIPTS.**

19 Section 9 of the Outer Continental Shelf Lands Act
20 (43 U.S.C. 1338) is amended—

21 (1) by designating the existing text as sub-
22 section (a);

23 (2) in subsection (a) (as so designated) by in-
24 serting “, if not paid as otherwise provided in this
25 title” after “receipts”; and

1 (3) by adding the following:

2 “(b) TREATMENT OF OCS RECEIPTS FROM TRACTS
3 COMPLETELY WITHIN 125 MILES OF THE COASTLINE.—

4 “(1) DEPOSIT.—The Secretary shall deposit
5 into a separate account in the Treasury the portion
6 of OCS Receipts for each fiscal year that will be
7 shared under paragraphs (2) and (3).

8 “(2) RECEIPTS SHARING BEGINNING OCTOBER
9 1, 2010.—

10 “(A) Beginning October 1, 2010, the Sec-
11 retary shall share OCS Receipts derived from
12 the following areas:

13 “(i) Lease tracts located on portions
14 of the Gulf of Mexico OCS Region com-
15 pletely within 125 miles of any coastline
16 that are available for leasing under the
17 2002–2007 5-Year Oil and Gas Leasing
18 Program in effect prior to the date of the
19 enactment of the Ocean State Options Act
20 of 2005.

21 “(ii) Lease tracts in production prior
22 to January 1, 2006, completely within 125
23 miles of any coastline located on portions
24 of the OCS that were not available for
25 leasing under the 2002–2007 5-Year OCS

1 Oil and Gas Leasing Program in effect
2 prior to the date of the enactment of the
3 Ocean State Options Act of 2005.

4 “(iii) Lease tracts for which leases are
5 issued prior to January 1, 2006, located in
6 the Alaska OCS Region completely within
7 125 miles of the coastline.

8 “(B) The Secretary shall share the fol-
9 lowing percentages of OCS Receipts from the
10 leases described in subparagraph (A) derived
11 during the fiscal year indicated:

12 “(i) For fiscal year 2011, 4.5 percent.

13 “(ii) For fiscal year 2012, 5.0 per-
14 cent.

15 “(iii) For fiscal year 2013, 5.5 per-
16 cent.

17 “(iv) For fiscal year 2014, 6.0 per-
18 cent.

19 “(v) For fiscal year 2015, 6.5 percent.

20 “(vi) For fiscal year 2016, 7.5 per-
21 cent.

22 “(vii) For fiscal year 2017, 10.0 per-
23 cent.

24 “(viii) For fiscal year 2018, 12.5 per-
25 cent.

1 “(ix) For fiscal year 2019, 15.0 per-
2 cent.

3 “(x) For fiscal year 2020, 17.5 per-
4 cent.

5 “(xi) For fiscal year 2021, 20.0 per-
6 cent.

7 “(xii) For fiscal year 2022, 22.5 per-
8 cent.

9 “(xiii) For fiscal year 2023, 25.0 per-
10 cent.

11 “(xiv) For fiscal year 2024, 27.5 per-
12 cent.

13 “(xv) For fiscal year 2025, 30.0 per-
14 cent.

15 “(xvi) For fiscal year 2026, 32.5 per-
16 cent.

17 “(xvii) For fiscal year 2027, 35.0 per-
18 cent.

19 “(xviii) For fiscal year 2028, 37.5
20 percent.

21 “(xix) For fiscal year 2029 and each
22 subsequent fiscal year, 40.0 percent.

23 “(3) RECEIPTS SHARING BEGINNING JANUARY
24 1, 2006.—Beginning January 1, 2006, the Secretary
25 shall share 40 percent of OCS Receipts derived on

1 and after January 1, 2006, from all leases located
2 completely within 125 miles of any coastline not in-
3 cluded within the provisions of paragraph (2) or the
4 receipts sharing provisions of section 8(g).

5 “(4) ALLOCATIONS.—The Secretary shall allo-
6 cate the OCS Receipts deposited into the separate
7 account established by paragraph (1) that are
8 shared under paragraphs (2) and (3) as follows:

9 “(A) BONUS BIDS.—Deposits derived from
10 bonus bids from a leased tract, including inter-
11 est thereon, shall be allocated at the end of
12 each fiscal year as follows:

13 “(i) 87.5 percent to the Adjacent
14 State.

15 “(ii) 6.25 percent into the Treasury,
16 which shall be allocated to the account es-
17 tablished by section 6514 of the Ocean
18 State Options Act of 2005.

19 “(iii) 5 percent into the account es-
20 tablished by section 6523 of the Ocean
21 State Options Act of 2005.

22 “(iv) 1.25 percent into the account es-
23 tablished by section 6526 of the Ocean
24 State Options Act of 2005.

1 “(B) ROYALTIES.—Deposits derived from
2 royalties from a leased tract, including interest
3 thereon, shall be allocated at the end of each
4 fiscal year as follows:

5 “(i) 87.5 percent to the Adjacent
6 State and any other producing State or
7 States with a leased tract within its Adja-
8 cent Zone within 125 miles of its coastline
9 that generated royalties during the fiscal
10 year, if the other producing or States have
11 a coastline point within 300 miles of any
12 portion of the leased tract, in which case
13 the amount allocated for the leased tract
14 shall be—

15 “(I) one-third to the Adjacent
16 State; and

17 “(II) two-thirds to each pro-
18 ducing State, including the Adjacent
19 State, inversely proportional to the
20 distance between the nearest point on
21 the coastline of the producing State
22 and the geographic center of the
23 leased tract.

24 “(ii) 6.25 percent into the Treasury,
25 which shall be allocated to the account es-

1 tablished by section 6514 of the Ocean
2 State Options Act of 2005.

3 “(iii) 5 percent into the account es-
4 tablished by section 6523 of the Ocean
5 State Options Act of 2005.

6 “(iv) 1.25 percent into the account es-
7 tablished by section 6526 of the Ocean
8 State Options Act of 2005.

9 “(c) TREATMENT OF OCS RECEIPTS FROM TRACTS
10 PARTIALLY OR COMPLETELY BEYOND 125 MILES OF THE
11 COASTLINE.—

12 “(1) DEPOSIT.—The Secretary shall deposit
13 into a separate account in the Treasury the portion
14 of OCS Receipts for each fiscal year that will be
15 shared under paragraphs (2) and (3).

16 “(2) RECEIPTS SHARING BEGINNING OCTOBER
17 1, 2010.—

18 “(A) Beginning October 1, 2010, the Sec-
19 retary shall share OCS Receipts derived from
20 the following areas:

21 “(i) Lease tracts located on portions
22 of the Gulf of Mexico OCS Region partially
23 or completely beyond 125 miles of any
24 coastline that are available for leasing
25 under the 2002–2007 5-Year Oil and Gas

1 Leasing Program in effect prior to the
2 date of enactment of the Ocean State Op-
3 tions Act of 2005.

4 “(ii) Lease tracts in production prior
5 to January 1, 2006, partially or completely
6 beyond 125 miles of any coastline located
7 on portions of the OCS that were not
8 available for leasing under the 2002–2007
9 5-Year OCS Oil and Gas Leasing Program
10 in effect prior to the date of enactment of
11 the Ocean State Options Act of 2005.

12 “(iii) Lease tracts for which leases are
13 issued prior to January 1, 2006, located in
14 the Alaska OCS Region partially or com-
15 pletely beyond 125 miles of the coastline.

16 “(B) The Secretary shall share the fol-
17 lowing percentages of OCS Receipts from the
18 leases described in subparagraph (A) derived
19 during the fiscal year indicated:

20 “(i) For fiscal year 2011, 4.5 percent.

21 “(ii) For fiscal year 2012, 5.0 per-
22 cent.

23 “(iii) For fiscal year 2013, 5.5 per-
24 cent.

1 “(iv) For fiscal year 2014, 6.0 per-
2 cent.

3 “(v) For fiscal year 2015, 6.5 percent.

4 “(vi) For fiscal year 2016, 7.5 per-
5 cent.

6 “(vii) For fiscal year 2017, 10.0 per-
7 cent.

8 “(viii) For fiscal year 2018, 12.5 per-
9 cent.

10 “(ix) For fiscal year 2019, 15.0 per-
11 cent.

12 “(x) For fiscal year 2020, 17.5 per-
13 cent.

14 “(xi) For fiscal year 2021, 20.0 per-
15 cent.

16 “(xii) For fiscal year 2022, 22.5 per-
17 cent.

18 “(xiii) For fiscal year 2023, 25.0 per-
19 cent.

20 “(xiv) For fiscal year 2024, 27.5 per-
21 cent.

22 “(xv) For fiscal year 2025, 30.0 per-
23 cent.

24 “(xvi) For fiscal year 2026, 32.5 per-
25 cent.

1 “(xvii) For fiscal year 2027, 35.0 per-
2 cent.

3 “(xviii) For fiscal year 2028, 37.5
4 percent.

5 “(xix) For fiscal year 2029 and each
6 subsequent fiscal year, 40.0 percent.

7 “(3) RECEIPTS SHARING BEGINNING JANUARY
8 1, 2006.—Beginning January 1, 2006, the Secretary
9 shall share 40 percent of OCS Receipts derived on
10 and after January 1, 2006, from all leases located
11 partially or completely beyond 125 miles of any
12 coastline not included within the provisions of para-
13 graph (2).

14 “(4) ALLOCATIONS.—The Secretary shall allo-
15 cate the OCS Receipts deposited into the separate
16 account established by paragraph (1) that are
17 shared under paragraphs (2) and (3) as follows:

18 “(A) BONUS BIDS.—Deposits derived from
19 bonus bids from a leased tract, including inter-
20 est thereon, shall be allocated at the end of
21 each fiscal year as follows:

22 “(i) 87.5 percent to the Adjacent
23 State.

24 “(ii) 6.25 percent into the Treasury,
25 which shall be allocated to the account es-

1 tablished by section 6514 of the Ocean
2 State Options Act of 2005.

3 “(iii) 5 percent into the account es-
4 tablished by section 6523 of the Ocean
5 State Options Act of 2005.

6 “(iv) 1.25 percent into the account es-
7 tablished by section 6526 of the Ocean
8 State Options Act of 2005.

9 “(B) ROYALTIES.—Deposits derived from
10 royalties from a leased tract, including interest
11 thereon, shall be allocated at the end of each
12 fiscal year as follows:

13 “(i) 87.5 percent to the Adjacent
14 State and any other producing State or
15 States with a leased tract within its Adja-
16 cent Zone partially or completely beyond
17 125 miles of its coastline that generated
18 royalties during the fiscal year, if the other
19 producing State or States have a coastline
20 point within 300 miles of any portion of
21 the leased tract, in which case the amount
22 allocated for the leased tract shall be—

23 “(I) one-third to the Adjacent
24 State; and

1 “(II) two-thirds to each pro-
2 ducing State, including the Adjacent
3 State, inversely proportional to the
4 distance between the nearest point on
5 the coastline of the producing State
6 and the geographic center of the
7 leased tract.

8 “(ii) 6.25 percent into the account es-
9 tablished by section 6514 of the Ocean
10 State Options Act of 2005.

11 “(iii) 5 percent into the account es-
12 tablished by section 6523 of the Ocean
13 State Options Act of 2005.

14 “(iv) 1.25 percent into the account es-
15 tablished by section 6526 of the Ocean
16 State Options Act of 2005.

17 “(d) SPECIAL RECEIPTS SHARING.—

18 “(1) DEPOSIT.—The Secretary shall deposit
19 into a separate account in the Treasury the portion
20 of OCS Receipts for each fiscal year that will be
21 shared under paragraphs (2) and (3).

22 “(2) EXCESS NEW PROGRAM RECEIPTS.—

23 “(A) REQUIREMENT.—Beginning January
24 1, 2006, and continuing through September 30,
25 2015, if the total amount of OCS receipts in a

1 fiscal year derived from leases included within
2 the sharing provisions of subsections (b)(3) and
3 (c)(3) exceeds the amount specified in subpara-
4 graph (B), the Secretary shall share 60 percent
5 of the difference between such total amount and
6 the amount specified in subparagraph (B).

7 “(B) TOTAL AMOUNT SPECIFIED.—The
8 amount specified in this subparagraph is the
9 following:

10 “(i) For fiscal year 2006, \$0.

11 “(ii) For fiscal year 2007,
12 \$498,000,000.

13 “(iii) For fiscal year 2008,
14 \$260,000,000.

15 “(iv) For fiscal year 2009,
16 \$322,000,000.

17 “(v) For fiscal year 2010,
18 \$140,000,000.

19 “(vi) For fiscal year 2011,
20 \$93,000,000.

21 “(vii) For fiscal year 2012,
22 \$25,000,000.

23 “(viii) For fiscal year 2013,
24 \$540,000,000.

1 “(ix) For fiscal year 2014,
2 \$342,000,000.

3 “(x) For fiscal year 2015,
4 \$481,000,000.

5 “(3) EXTRA NEW PROGRAM AREA RECEIPTS.—
6 Beginning October 1, 2015, and continuing there-
7 after through September 30, 2029, the Secretary
8 shall share an additional 20 percent of OCS Re-
9 ceipts derived from leases included within the shar-
10 ing provisions of subsections (b)(3) and (c)(3) that
11 were not already shared under those provisions.

12 “(4) ALLOCATIONS.—The Secretary shall allo-
13 cate the OCS Receipts deposited into the separate
14 account established by paragraph (1) that are
15 shared under the provisions of paragraphs (2) and
16 (3) among all producing States, which shall be allo-
17 cated to each producing State based on the ratio
18 that—

19 “(A) OCS Receipts derived from all leased
20 tracts on the Federal outer Continental Shelf
21 that are completely within 300 miles of the
22 coastline of the producing State for the fiscal
23 year, bears to

24 “(B) OCS Receipts derived from all leased
25 tracts on the Federal outer Continental Shelf

1 that are completely within 300 miles of the
2 coastlines of all producing States for the fiscal
3 year.

4 “(e) TRANSMISSION OF ALLOCATIONS.—

5 “(1) IN GENERAL.—Not later than 90 days
6 after the end of each fiscal year, the Secretary shall
7 transmit—

8 “(A) to each State two-thirds of such
9 State’s allocations under subsections
10 (b)(4)(A)(i), (b)(4)(B)(i), (c)(4)(A)(i),
11 (c)(4)(B)(i), and (d)(4) for the immediate prior
12 fiscal year;

13 “(B) to coastal county-equivalent and mu-
14 nicipal political subdivisions of such State a
15 total of one-third of such State’s allocations
16 under subsections (b)(4)(A)(i), (b)(4)(B)(i),
17 (c)(4)(A)(i), (c)(4)(B)(i), and (d)(4), together
18 with all accrued interest thereon; and

19 “(C) the remaining allocations under sub-
20 sections (b)(4) and (c)(4), together with all ac-
21 crued interest thereon.

22 “(2) ALLOCATIONS TO COASTAL COUNTY-
23 EQUIVALENT POLITICAL SUBDIVISIONS.—The Sec-
24 retary shall make an initial allocation of the OCS

1 Receipts to be shared under paragraph (1)(B) as fol-
2 lows:

3 “(A) 25 percent shall be allocated based on
4 the ratio of such coastal county-equivalent polit-
5 ical subdivision’s population to the coastal pop-
6 ulation of all coastal county-equivalent political
7 subdivisions in the State.

8 “(B) 25 percent shall be allocated based on
9 the ratio of such coastal county-equivalent polit-
10 ical subdivision’s coastline miles to the coastline
11 miles of all coastal county-equivalent political
12 subdivisions in the State as calculated by the
13 Secretary. In such calculations, coastal county-
14 equivalent political subdivisions without a coast-
15 line shall be considered to have 50 percent of
16 the average coastline miles of the coastal coun-
17 ty-equivalent political subdivisions that do have
18 coastlines.

19 “(C) 25 percent shall be allocated to all
20 coastal county-equivalent political subdivisions
21 having a coastline point within 300 miles of the
22 leased tract for which OCS Receipts are being
23 shared based on a formula that allocates the
24 funds based on such coastal county-equivalent

1 political subdivision's relative distance from the
2 leased tract.

3 “(D) 25 percent shall be allocated to all
4 coastal county-equivalent political subdivisions
5 having a coastline point within 300 miles of the
6 leased tract for which OCS Receipts are being
7 shared based on the relative level of outer Con-
8 tinental Shelf oil and gas activities in a coastal
9 political subdivision compared to the level of
10 outer Continental Shelf activities in all coastal
11 political subdivisions in the State. The Sec-
12 retary shall define the term ‘outer Continental
13 Shelf oil and gas activities’ for purposes of this
14 subparagraph to include, but not be limited to,
15 construction of vessels, drillships, and platforms
16 involved in exploration, production, and develop-
17 ment on the outer Continental Shelf; support
18 and supply bases, ports, and related activities;
19 offices of geologists, geophysicists, engineers,
20 and other professionals involved in support of
21 exploration, production, and development of oil
22 and gas on the outer Continental Shelf; pipe-
23 lines and other means of transporting oil and
24 gas production from the outer Continental
25 Shelf; and processing and refining of oil and

1 gas production from the outer Continental
2 Shelf. For purposes of this subparagraph, if a
3 coastal county-equivalent political subdivision
4 does not have a coastline, its coastal point shall
5 be the point on the coastline closest to it.

6 “(3) ALLOCATIONS TO COASTAL MUNICIPAL PO-
7 LITICAL SUBDIVISIONS.—The initial allocation to
8 each coastal county-equivalent political subdivision
9 under paragraph (2) shall be further allocated to the
10 coastal county-equivalent political subdivision and
11 any coastal municipal political subdivisions located
12 partially or wholly within the boundaries of the
13 coastal county-equivalent political subdivision as fol-
14 lows:

15 “(A) One-third shall be allocated to the
16 coastal county-equivalent political subdivision.

17 “(B) Two-thirds shall be allocated on a per
18 capita basis to the municipal political subdivi-
19 sions and the county-equivalent political sub-
20 division, with the allocation to the latter based
21 upon its population not included within the
22 boundaries of a municipal political subdivision.

23 “(f) INVESTMENT OF DEPOSITS.—Amounts depos-
24 ited under this section shall be invested by the Secretary
25 of the Treasury in securities backed by the full faith and

1 credit of the United States having maturities suitable to
2 the needs of the account in which they are deposited and
3 yielding the highest reasonably available interest rates as
4 determined by the Secretary of the Treasury.

5 “(g) USE OF FUNDS.—A recipient of funds under
6 this section may use the funds for one or more of the fol-
7 lowing:

8 “(1) To reduce in-State college tuition at public
9 institutions of higher learning and otherwise support
10 public education, including career technical edu-
11 cation.

12 “(2) To make transportation infrastructure im-
13 provements.

14 “(3) To reduce taxes.

15 “(4) To promote and provide for—

16 “(A) coastal or environmental restoration;

17 “(B) fish, wildlife, and marine life habitat
18 enhancement;

19 “(C) waterways maintenance;

20 “(D) shore protection; and

21 “(E) marine and oceanographic education
22 and research.

23 “(5) To improve infrastructure associated with
24 energy production activities conducted on the outer
25 Continental Shelf.

1 “(6) To fund energy demonstration projects
2 and supporting infrastructure for energy projects.

3 “(7) For any other purpose as determined by
4 State law.

5 “(h) NO ACCOUNTING REQUIRED.—No recipient of
6 funds under this section shall be required to account to
7 the Federal Government for the expenditure of such
8 funds, except as otherwise may be required by law. Fur-
9 ther, funds allocated under this section to States and polit-
10 ical subdivisions may be used as matching funds for other
11 Federal programs.

12 “(i) EFFECT OF FUTURE LAWS.—Enactment of any
13 future Federal statute that has the effect, as determined
14 by the Secretary, of restricting any Federal agency from
15 spending appropriated funds, or otherwise preventing it
16 from fulfilling its pre-existing responsibilities as of the
17 date of enactment of the statute, unless such responsibil-
18 ities have been reassigned to another Federal agency by
19 the statute with no prevention of performance, to issue
20 any permit or other approval impacting on the OCS oil
21 and gas leasing program, or any lease issued thereunder,
22 or to implement any provision of this Act shall automati-
23 cally prohibit any sharing of OCS Receipts under this sec-
24 tion directly with the States, and their coastal political
25 subdivisions, for the duration of the restriction. The Sec-

1 retary shall make the determination of the existence of
2 such restricting effects within 30 days of a petition by any
3 outer Continental Shelf lessee or producing State.

4 “(j) DEFINITIONS.—In this section:

5 “(1) COASTAL COUNTY-EQUIVALENT POLITICAL
6 SUBDIVISION.—The term ‘coastal county-equivalent
7 political subdivision’ means a political jurisdiction
8 immediately below the level of State government, in-
9 cluding a county, parish, borough in Alaska, inde-
10 pendent municipality not part of a county, parish, or
11 borough in Alaska, or other equivalent subdivision of
12 a coastal State, that lies within the coastal zone.

13 “(2) COASTAL MUNICIPAL POLITICAL SUBDIVI-
14 SION.—The term ‘coastal municipal political subdivi-
15 sion’ means a municipality located within and part
16 of a county, parish, borough in Alaska, or other
17 equivalent subdivision of a State, all or part of which
18 coastal municipal political subdivision lies within the
19 coastal zone.

20 “(3) COASTAL POPULATION.—The term ‘coastal
21 population’ means the population of all coastal coun-
22 ty-equivalent political subdivisions, as determined by
23 the most recent official data of the Census Bureau.

24 “(4) COASTAL ZONE.—The term ‘coastal zone’
25 means that portion of a coastal State, including the

1 entire territory of any coastal county-equivalent po-
2 litical subdivision at least a part of which lies, within
3 75 miles landward from the coastline.

4 “(5) BONUS BIDS.—The term ‘bonus bids’
5 means all funds received by the Secretary to issue
6 an outer Continental Shelf minerals lease.

7 “(6) ROYALTIES.—The term ‘royalties’ means
8 all funds received by the Secretary from production
9 of oil or natural gas, or the sale of production taken
10 in-kind, from an outer Continental Shelf minerals
11 lease.

12 “(7) PRODUCING STATE.—The term ‘producing
13 State’ means an Adjacent State having an Adjacent
14 Zone containing leased tracts from which OCS Re-
15 cepts were derived.

16 “(8) OCS RECEIPTS.—The term ‘OCS Receipts’
17 means bonus bids and royalties.”.

18 **SEC. 6508. REVIEW OF OUTER CONTINENTAL SHELF EXPLO-**
19 **RATION PLANS.**

20 Subsections (c) and (d) of section 11 of the Outer
21 Continental Shelf Lands Act (43 U.S.C. 1340) are amend-
22 ed to read as follows:

23 “(c) PLAN REVIEW; PLAN PROVISIONS.—

24 “(1) Except as otherwise provided in this Act,
25 prior to commencing exploration pursuant to any oil

1 and gas lease issued or maintained under this Act,
2 the holder thereof shall submit an exploration plan
3 (hereinafter in this section referred to as a ‘plan’) to
4 the Secretary for review which shall include all infor-
5 mation and documentation required under para-
6 graphs (2) and (3). The Secretary shall review the
7 plan for completeness within 10 days of submission.
8 If the Secretary finds that the plan is not complete,
9 the Secretary shall notify the lessee with a detailed
10 explanation and require such modifications of such
11 plan as are necessary to achieve completeness. The
12 Secretary shall have 10 days to review a modified
13 plan for completeness. Such plan may apply to more
14 than one lease held by a lessee in any one region of
15 the outer Continental Shelf, or by a group of lessees
16 acting under a unitization, pooling, or drilling agree-
17 ment, and the lessee shall certify that such plan is
18 consistent with the terms of the lease and is con-
19 sistent with all statutory and regulatory require-
20 ments in effect on the date of issuance of the lease.
21 The Secretary shall have 30 days from the date the
22 plan is deemed complete to conduct a review of the
23 plan. If the Secretary finds the plan is not con-
24 sistent with the lease and all such statutory and reg-
25 ulatory requirements, the Secretary shall notify the

1 lessee with a detailed explanation of such modifica-
2 tions of such plan as are necessary to achieve com-
3 pliance. The Secretary shall have 30 days to review
4 any modified plan submitted by the lessee. The les-
5 see shall not take any action under the exploration
6 plan within the 30-day review period, or thereafter
7 until the plan has been modified to achieve compli-
8 ance as so notified.

9 “(2) An exploration plan submitted under this
10 subsection shall include, in the degree of detail
11 which the Secretary may by regulation require—

12 “(A) a schedule of anticipated exploration
13 activities to be undertaken;

14 “(B) a description of equipment to be used
15 for such activities;

16 “(C) the general location of each well to be
17 drilled; and

18 “(D) such other information deemed perti-
19 nent by the Secretary.

20 “(3) The Secretary may, by regulation, require
21 that such plan be accompanied by a general state-
22 ment of development and production intentions
23 which shall be for planning purposes only and which
24 shall not be binding on any party.

1 “(d) PLAN REVISIONS; CONDUCT OF EXPLORATION
2 ACTIVITIES.—

3 “(1) If a significant revision of an exploration
4 plan under this subsection is submitted to the Sec-
5 retary, the process to be used for the review of such
6 revision shall be the same as set forth in subsection
7 (c) of this section.

8 “(2) All exploration activities pursuant to any
9 lease shall be conducted in accordance with an explo-
10 ration plan or a revised plan which has been sub-
11 mitted to and reviewed by the Secretary.”.

12 **SEC. 6509. RESERVATION OF LANDS AND RIGHTS.**

13 Section 12 of the Outer Continental Shelf Lands Act
14 (43 U.S.C. 1341) is amended—

15 (1) in subsection (a) by adding at the end the
16 following: “The President may partially or com-
17 pletely revise or revoke any prior withdrawal made
18 by the President under the authority of this section.
19 The President may not revise or revoke a withdrawal
20 that was initiated by a petition from a State and ap-
21 proved by the Secretary of the Interior under sub-
22 section (h). A withdrawal by the President may be
23 for a term not to exceed 10 years. In considering a
24 potential withdrawal under this subsection, to the
25 maximum extent practicable the President shall ac-

1 commodate competing interests and potential uses of
2 the outer Continental Shelf.”;

3 (2) by adding at the end the following:

4 “(g) OPTION TO PETITION FOR LEASING WITHIN
5 CERTAIN AREAS OF THE OUTER CONTINENTAL SHELF.—

6 “(1) PROHIBITION AGAINST LEASING.—Except
7 as otherwise provided in this subsection, prior to
8 June 30, 2012, the Secretary shall not offer for leas-
9 ing for oil and gas, or for natural gas, any area
10 withdrawn from disposition by leasing in the Atlan-
11 tic OCS Region or the Pacific OCS Region, or the
12 Gulf of Mexico OCS Region Eastern Planning Area,
13 as depicted on the map referred to within this para-
14 graph, under the ‘Memorandum on Withdrawal of
15 Certain Areas of the United States Outer Conti-
16 nental Shelf from Leasing Disposition’, 34 Weekly
17 Comp. Pres. Doc. 1111, dated June 12, 1998, or
18 any area not withdrawn under that Memorandum
19 that is included within the Gulf of Mexico OCS Re-
20 gion Eastern Planning Area as indicated on the map
21 entitled ‘Gulf of Mexico OCS Region State Adjacent
22 Zones and OCS Planning Areas’ or within the Flor-
23 ida Straits Planning Area as indicated on the map
24 entitled ‘Atlantic OCS Region State Adjacent Zones
25 and OCS Planning Areas’, both of which are dated

1 September 2005 and on file in the Office of the Di-
2 rector, Minerals Management Service.

3 “(2) REVOCATION OF WITHDRAWAL.—The pro-
4 visions of the ‘Memorandum on Withdrawal of Cer-
5 tain Areas of the United States Outer Continental
6 Shelf from Leasing Disposition’, 34 Weekly Comp.
7 Pres. Doc. 1111, dated June 12, 1998, are hereby
8 revoked and are no longer in effect regarding any
9 areas included within the Gulf of Mexico OCS Re-
10 gion Central Planning Area as indicated on the map
11 entitled ‘Gulf of Mexico OCS Region State Adjacent
12 Zones and OCS Planning Areas’ dated September
13 2005 and on file in the Office of the Director, Min-
14 erals Management Service. The 2002–2007 5-Year
15 Outer Continental Shelf Oil and Gas Leasing Pro-
16 gram is hereby amended to include the areas added
17 to the Gulf of Mexico OCS Region Central Planning
18 Area by this Act to the extent that such areas were
19 included within the original boundaries of proposed
20 Lease Sale 181. The amendment to such leasing
21 program includes two sales in such additional areas,
22 one of which shall be held in January 2007 and one
23 of which shall be held in June 2007. The Final En-
24 vironmental Impact Statement prepared for this
25 area for Lease Sale 181 shall be deemed sufficient

1 for all purposes for each lease sale in which such
2 area is offered for lease during the 2002–2007 5-
3 Year Outer Continental Shelf Oil and Gas Leasing
4 Program without need for supplementation. Any
5 tract only partially added to the Gulf of Mexico OCS
6 Region Central Planning Area by this Act shall be
7 eligible for leasing of the part of such tract that is
8 included within the Gulf of Mexico OCS Region Cen-
9 tral Planning Area, and the remainder of such tract
10 that lies outside of the Gulf of Mexico OCS Region
11 Central Planning Area may be developed and pro-
12 duced by the lessee of such partial tract using ex-
13 tended reach or similar drilling from a location on
14 a leased area.

15 “(3) PETITION FOR LEASING.—

16 “(A) IN GENERAL.—The Governor of the
17 State, upon concurrence of its legislature, may
18 submit to the Secretary a petition requesting
19 that the Secretary make available any area that
20 is within the State’s Adjacent Zone, included
21 within the provisions of paragraph (1), and that
22 (i) is greater than 25 miles from any point on
23 the coastline of a Neighboring State for the
24 conduct of offshore leasing, pre-leasing, and re-
25 lated activities with respect to natural gas leas-

1 ing; or (ii) is greater than 50 miles from any
2 point on the coastline of a Neighboring State
3 for the conduct of offshore leasing, pre-leasing,
4 and related activities with respect to oil and gas
5 leasing. The Adjacent State may also petition
6 for leasing any other area within its Adjacent
7 Zone if leasing is allowed in the similar area of
8 the Adjacent Zone of the applicable Neigh-
9 boring State, or if not allowed, if the Neigh-
10 boring State, acting through its Governor, ex-
11 presses its concurrence with the petition. The
12 Secretary shall only consider such a petition
13 upon making a finding that leasing is allowed
14 in the similar area of the Adjacent Zone of the
15 applicable Neighboring State or upon receipt of
16 the concurrence of the Neighboring State. The
17 date of receipt by the Secretary of such concur-
18 rence by the Neighboring State shall constitute
19 the date of receipt of the petition for that area
20 for which the concurrence applies. A petition
21 for leasing any part of the Alabama Adjacent
22 Zone that is a part of the Gulf of Mexico East-
23 ern Planning Area, as indicated on the map en-
24 titled ‘Gulf of Mexico OCS Region State Adja-
25 cent Zones and OCS Planning Areas’ which is

1 dated September 2005 and on file in the Office
2 of the Director, Minerals Management Service,
3 shall require the concurrence of both Alabama
4 and Florida.

5 “(B) LIMITATIONS ON LEASING.—In its
6 petition, a State with an Adjacent Zone that
7 contains leased tracts may condition oil and
8 gas, or natural gas, new leasing for tracts with-
9 in 25 miles of the coastline by—

10 “(i) requiring a net reduction in the
11 number of production platforms;

12 “(ii) requiring a net increase in the
13 average distance of production platforms
14 from the coastline;

15 “(iii) limiting permanent surface occu-
16 pancy on new leases to areas that are more
17 than 10 miles from the coastline;

18 “(iv) limiting some tracts to being
19 produced from shore or from platforms lo-
20 cated on other tracts; or

21 “(v) other conditions that the Adja-
22 cent State may deem appropriate as long
23 as the Secretary does not determine that
24 production is made economically or tech-

1 nically impracticable or otherwise impos-
2 sible.

3 “(C) ACTION BY SECRETARY.—Not later
4 than 90 days after receipt of a petition under
5 subparagraph (A), the Secretary shall approve
6 the petition, unless the Secretary determines
7 that leasing the area would probably cause seri-
8 ous harm or damage to the marine resources of
9 the State’s Adjacent Zone. Prior to approving
10 the petition, the Secretary shall complete an en-
11 vironmental assessment that documents the an-
12 ticipated environmental effects of leasing in the
13 area included within the scope of the petition.

14 “(D) FAILURE TO ACT.—If the Secretary
15 fails to approve or deny a petition in accordance
16 with subparagraph (C) the petition shall be con-
17 sidered to be approved 90 days after receipt of
18 the petition.

19 “(E) AMENDMENT OF THE 5-YEAR LEAS-
20 ING PROGRAM.—Notwithstanding section 18,
21 within 180 days of the approval of a petition
22 under subparagraph (C) or (D), the Secretary
23 shall amend the current 5-Year Outer Conti-
24 nental Shelf Oil and Gas Leasing Program to
25 include a lease sale or sales for the entire area

1 covered by the approved petition, unless there
2 are, from the date of approval, fewer than 12
3 months remaining in the current 5-Year Leas-
4 ing Program in which case the Secretary shall
5 include the areas covered by the approved peti-
6 tion within lease sales under the next 5-Year
7 Leasing Program. For purposes of amending
8 the 5-Year Program in accordance with this
9 section, further consultations with States shall
10 not be required. The environmental assessment
11 performed under the provisions of the National
12 Environmental Policy Act of 1969 to assess the
13 effects of approving the petition shall be suffi-
14 cient to amend the 5-Year Leasing Program.

15 “(h) OPTION TO PETITION FOR EXTENSION OF
16 WITHDRAWAL FROM LEASING WITHIN CERTAIN AREAS
17 OF THE OUTER CONTINENTAL SHELF.—

18 “(1) IN GENERAL.—The Governor of the State,
19 upon the concurrence of its legislature, may submit
20 to the Secretary petitions requesting that the Sec-
21 retary extend for a period of time of up to 5 years
22 for each petition the withdrawal from leasing for all
23 or part of any area within the State’s Adjacent Zone
24 within 125 miles of the coastline that is subject to
25 subsection (g)(1). A State may petition multiple

1 times for any particular area but not more than
2 once per calendar year for any particular area. A
3 State must submit separate petitions, with separate
4 votes by its legislature, for areas within 50 miles of
5 the coastline, areas more than 50 miles but not ex-
6 ceeding 100 miles from the coastline, and areas ex-
7 ceeding 100 miles but not exceeding 125 miles from
8 the coastline. A petition of a State may apply to ei-
9 ther oil and gas leasing or natural gas leasing, or
10 both, and may request some areas to be withdrawn
11 from all leasing and some areas to be withdrawn
12 only from one type of leasing. A petition for extend-
13 ing the withdrawal from leasing of any part of the
14 Alabama Adjacent Zone that is a part of the Gulf
15 of Mexico OCS Region Eastern Planning Area, as
16 indicated on the map entitled ‘Gulf of Mexico OCS
17 Region State Adjacent Zones and OCS Planning
18 Areas’ which is dated September 2005 and on file in
19 the Office of the Director, Minerals Management
20 Service, may be made by either Alabama or Florida.

21 “(2) ACTION BY SECRETARY.—The Secretary
22 shall perform an environmental assessment under
23 the National Environmental Policy Act of 1969 to
24 assess the effects of approving the petition under
25 paragraph (1). Not later than 90 days after receipt

1 of the petition, the Secretary shall approve the peti-
2 tion, unless the Secretary determines that extending
3 the withdrawal from leasing would probably cause
4 serious harm or damage to the marine resources of
5 the State's Adjacent Zone. The Secretary shall not
6 approve a petition from a State that extends the re-
7 maining period of a withdrawal of an area from leas-
8 ing for a total of more than 10 years. However, the
9 Secretary may approve petitions to extend the with-
10 drawal from leasing of any area ad infinitum, sub-
11 ject only to the limitations contained in this sub-
12 section.

13 “(3) FAILURE TO ACT.—If the Secretary fails
14 to approve or deny a petition in accordance with
15 paragraph (2) the petition shall be considered to be
16 approved 90 days after receipt of the petition.”.

17 **SEC. 6510. OUTER CONTINENTAL SHELF LEASING PRO-**
18 **GRAM.**

19 Section 18 of the Outer Continental Shelf Lands Act
20 (43 U.S.C. 1344) is amended—

21 (1) in subsection (a), by adding at the end of
22 paragraph (3) the following: “The Secretary shall, in
23 each 5-year program, include lease sales that when
24 viewed as a whole propose to offer for oil and gas
25 or natural gas leasing at least 75 percent of the

1 available unleased acreage within each OCS Plan-
2 ning Area. Available unleased acreage is that portion
3 of the outer Continental Shelf that is not under
4 lease at the time of the proposed lease sale, and has
5 not otherwise been made unavailable for leasing by
6 law.”;

7 (2) in subsection (c), by striking so much as
8 precedes paragraph (3) and inserting the following:

9 “(c)(1) During the preparation of any proposed leas-
10 ing program under this section, the Secretary shall con-
11 sider and analyze leasing throughout the entire Outer
12 Continental Shelf without regard to any other law affect-
13 ing such leasing. During this preparation the Secretary
14 shall invite and consider suggestions from any interested
15 Federal agency, including the Attorney General, in con-
16 sultation with the Federal Trade Commission, and from
17 the Governor of any coastal State. The Secretary may also
18 invite or consider any suggestions from the executive of
19 any local government in a coastal State that have been
20 previously submitted to the Governor of such State, and
21 from any other person. Further, the Secretary shall con-
22 sult with the Secretary of Defense regarding military oper-
23 ational needs in the outer Continental Shelf. The Sec-
24 retary shall work with the Secretary of Defense to resolve
25 any conflicts that might arise regarding offering any area

1 of the outer Continental Shelf for oil and gas or natural
2 gas leasing. If the Secretaries are not able to resolve all
3 such conflicts, any unresolved issues shall be elevated to
4 the President for resolution.

5 “(2) After the consideration and analysis required by
6 paragraph (1), including the consideration of the sugges-
7 tions received from any interested Federal agency, the
8 Federal Trade Commission, the Governor of any coastal
9 State, any local government of a coastal State, and any
10 other person, the Secretary shall publish in the Federal
11 Register a proposed leasing program accompanied by a
12 draft environmental impact statement prepared pursuant
13 to the National Environmental Policy Act of 1969. After
14 the publishing of the proposed leasing program and during
15 the comment period provided for on the draft environ-
16 mental impact statement, the Secretary shall submit a
17 copy of the proposed program to the Governor of each af-
18 fected State for review and comment. The Governor may
19 solicit comments from those executives of local govern-
20 ments in the Governor’s State that the Governor, in the
21 discretion of the Governor, determines will be affected by
22 the proposed program. If any comment by such Governor
23 is received by the Secretary at least 15 days prior to sub-
24 mission to the Congress pursuant to paragraph (3) and
25 includes a request for any modification of such proposed

1 program, the Secretary shall reply in writing, granting or
2 denying such request in whole or in part, or granting such
3 request in such modified form as the Secretary considers
4 appropriate, and stating the Secretary's reasons therefor.
5 All such correspondence between the Secretary and the
6 Governor of any affected State, together with any addi-
7 tional information and data relating thereto, shall accom-
8 pany such proposed program when it is submitted to the
9 Congress.”; and

10 (3) by adding at the end the following:

11 “(i) PROJECTION OF STATE AND LOCAL GOVERN-
12 MENT SHARES OF OCS RECEIPTS.—Concurrent with the
13 publication of the scoping notice at the beginning of the
14 development of each 5-year Outer Continental Shelf oil
15 and gas leasing program, or as soon thereafter as possible,
16 the Secretary shall provide to each coastal State, and
17 coastal political subdivisions thereof, a best-efforts projec-
18 tion of the OCS Receipts that the Secretary expects will
19 be shared with each coastal State, and its coastal political
20 subdivisions, using the assumption that the unleased
21 tracts within the State's Adjacent Zone are fully made
22 available for leasing, including long-term projected OCS
23 Receipts. In addition, the Secretary shall include a macro-
24 economic estimate of the impact of such leasing on the
25 national economy and each State's economy, including in-

1 vestment, jobs, revenues, personal income, and other cat-
2 egories.”.

3 **SEC. 6511. COORDINATION WITH ADJACENT STATES.**

4 Section 19 of the Outer Continental Shelf Lands Act
5 (43 U.S.C. 1345) is amended—

6 (1) in subsection (a) in the first sentence by in-
7 serting “, for any tract located within the Adjacent
8 State’s Adjacent Zone,” after “government”; and

9 (2) by adding the following:

10 “(f)(1) No Federal agency may permit or otherwise
11 approve, without the concurrence of the Adjacent State,
12 the construction of a crude oil or petroleum products (or
13 both) pipeline within the part of the Adjacent State’s Ad-
14 jacent Zone that is not available by law for oil and gas
15 or natural gas leasing, except that such a pipeline may
16 be approved to pass through such Adjacent Zone if at least
17 50 percent of the production projected to be carried by
18 the pipeline within its first 10 years of operation is from
19 areas of the Adjacent States Adjacent Zone.

20 “(2) No State may prohibit the construction within
21 its Adjacent Zone or its State waters of a natural gas pipe-
22 line that will transport natural gas produced from the
23 outer Continental Shelf. However, an Adjacent State may
24 prevent a proposed natural gas pipeline landing location
25 if it proposes two alternate landing locations in the Adja-

1 cent State, acceptable to the Adjacent State, located with-
2 in 50 miles on either side of the proposed landing loca-
3 tion.”.

4 **SEC. 6512. ENVIRONMENTAL STUDIES.**

5 Section 20(d) of the Outer Continental Shelf Lands
6 Act (43 U.S.C. 1346) is amended—

7 (1) by inserting “(1)” after “(d)”; and

8 (2) by adding at the end the following:

9 “(2) For all programs, lease sales, leases, and actions
10 under this Act, the following shall apply regarding the ap-
11 plication of the National Environmental Policy Act of
12 1969:

13 “(A) Granting or directing lease suspensions
14 and the conduct of all preliminary activities on outer
15 Continental Shelf tracts, including seismic activities,
16 are categorically excluded from the need to prepare
17 either an environmental assessment or an environ-
18 mental impact statement, and it shall not be re-
19 quired to document why no exceptions to the cat-
20 egorical exclusion apply for activities conducted
21 under the authority of this Act.

22 “(B) The environmental impact statement de-
23 veloped in support of each 5-year oil and gas leasing
24 program provides the environmental analysis for all
25 lease sales to be conducted under the program and

1 such sales shall not be subject to further environ-
2 mental analysis.

3 “(C) Exploration plans shall not be subject to
4 any requirement to prepare an environmental impact
5 statement, and the Secretary may find that explo-
6 ration plans are eligible for categorical exclusion due
7 to the impacts already being considered within an
8 environmental impact statement or due to mitigation
9 measures included within the plan.

10 “(D) Within each OCS Planning Area, after the
11 preparation of the first development and production
12 plan environmental impact statement for a leased
13 tract within the Area, future development and pro-
14 duction plans for leased tracts within the Area shall
15 only require the preparation of an environmental as-
16 sessment unless the most recent development and
17 production plan environmental impact statement
18 within the Area was finalized more than 10 years
19 prior to the date of the approval of the plan, in
20 which case an environmental impact statement shall
21 be required.”.

22 **SEC. 6513. REVIEW OF OUTER CONTINENTAL SHELF DEVEL-**
23 **OPMENT AND PRODUCTION PLANS.**

24 Section 25 of the Outer Continental Shelf Lands Act
25 (43 U.S.C. 1351(a)) is amended to read as follows:

1 **“SEC. 25. REVIEW OF OUTER CONTINENTAL SHELF DEVEL-**
2 **OPMENT AND PRODUCTION PLANS.**

3 “(a) DEVELOPMENT AND PRODUCTION PLANS; SUB-
4 MISSION TO SECRETARY; STATEMENT OF FACILITIES AND
5 OPERATION; SUBMISSION TO GOVERNORS OF AFFECTED
6 STATES AND LOCAL GOVERNMENTS.—

7 “(1) Prior to development and production pur-
8 suant to an oil and gas lease issued on or after Sep-
9 tember 18, 1978, for any area of the outer Conti-
10 nental Shelf, or issued or maintained prior to Sep-
11 tember 18, 1978, for any area of the outer Conti-
12 nental Shelf, with respect to which no oil or gas has
13 been discovered in paying quantities prior to Sep-
14 tember 18, 1978, the lessee shall submit a develop-
15 ment and production plan (hereinafter in this sec-
16 tion referred to as a ‘plan’) to the Secretary for re-
17 view.

18 “(2) A plan shall be accompanied by a state-
19 ment describing all facilities and operations, other
20 than those on the outer Continental Shelf, proposed
21 by the lessee and known by the lessee (whether or
22 not owned or operated by such lessee) that will be
23 constructed or utilized in the development and pro-
24 duction of oil or gas from the lease area, including
25 the location and site of such facilities and oper-
26 ations, the land, labor, material, and energy require-

1 ments associated with such facilities and operations,
2 and all environmental and safety safeguards to be
3 implemented.

4 “(3) Except for any privileged or proprietary
5 information (as such term is defined in regulations
6 issued by the Secretary), the Secretary, within 30
7 days after receipt of a plan and statement, shall—

8 “(A) submit such plan and statement to
9 the Governor of any affected State, and upon
10 request to the executive of any affected local
11 government; and

12 “(B) make such plan and statement avail-
13 able to any appropriate interstate regional enti-
14 ty and the public.

15 “(b) DEVELOPMENT AND PRODUCTION ACTIVITIES
16 IN ACCORDANCE WITH PLAN AS LEASE REQUIREMENT.—
17 After enactment of the Ocean State Options Act of 2005,
18 no oil and gas lease may be issued pursuant to this Act
19 in any region of the outer Continental Shelf, unless such
20 lease requires that development and production activities
21 be carried out in accordance with a plan that complies
22 with the requirements of this section. This section shall
23 also apply to leases that do not have an approved develop-
24 ment and production plan as of the date of enactment of
25 the Ocean State Options Act of 2005.

1 “(c) SCOPE AND CONTENTS OF PLAN.—A plan may
2 apply to more than one oil and gas lease, and shall set
3 forth, in the degree of detail established by regulations
4 issued by the Secretary—

5 “(1) the general work to be performed;

6 “(2) a description of all facilities and operations
7 located on the outer Continental Shelf that are pro-
8 posed by the lessee or known by the lessee (whether
9 or not owned or operated by such lessee) to be di-
10 rectly related to the proposed development, including
11 the location and size of such facilities and oper-
12 ations, and the land, labor, material, and energy re-
13 quirements associated with such facilities and oper-
14 ations;

15 “(3) the environmental safeguards to be imple-
16 mented on the outer Continental Shelf and how such
17 safeguards are to be implemented;

18 “(4) all safety standards to be met and how
19 such standards are to be met;

20 “(5) an expected rate of development and pro-
21 duction and a time schedule for performance; and

22 “(6) such other relevant information as the Sec-
23 retary may by regulation require.

24 “(d) COMPLETENESS REVIEW OF THE PLAN.—

1 “(1) Prior to commencing any activity under a
2 development and production plan pursuant to any oil
3 and gas lease issued or maintained under this Act,
4 the lessee shall certify that the plan is consistent
5 with the terms of the lease and that it is consistent
6 with all statutory and regulatory requirements in ef-
7 fect on the date of issuance of the lease. The plan
8 shall include all required information and docu-
9 mentation required under subsection (c).

10 “(2) The Secretary shall review the plan for
11 completeness within 30 days of submission. If the
12 Secretary finds that the plan is not complete, the
13 Secretary shall notify the lessee with a detailed ex-
14 planation of such modifications of such plan as are
15 necessary to achieve completeness. The Secretary
16 shall have 30 days to review a modified plan for
17 completeness.

18 “(e) REVIEW FOR CONSISTENCY OF THE PLAN.—

19 “(1) After a determination that a plan is com-
20 plete, the Secretary shall have 120 days to conduct
21 a review of the plan, to ensure that it is consistent
22 with the terms of the lease, and that it is consistent
23 with all such statutory and regulatory requirements
24 applicable to the lease. If the Secretary finds that
25 the plan is not consistent, the Secretary shall notify

1 the lessee with a detailed explanation of such modi-
2 fications of such plan as are necessary to achieve
3 consistency.

4 “(2) The Secretary shall have 120 days to re-
5 view a modified plan.

6 “(3) The lessee shall not conduct any activities
7 under the plan during any 120-day review period, or
8 thereafter until the plan has been modified to
9 achieve compliance as so notified.

10 “(4) After review by the Secretary provided for
11 by this section, a lessee may operate pursuant to the
12 plan without further review or approval by the Sec-
13 retary.

14 “(f) REVIEW OF REVISION OF THE APPROVED
15 PLAN.—The lessee may submit to the Secretary any revi-
16 sion of a plan if the lessee determines that such revision
17 will lead to greater recovery of oil and natural gas, im-
18 prove the efficiency, safety, and environmental protection
19 of the recovery operation, is the only means available to
20 avoid substantial economic hardship to the lessee, or is
21 otherwise not inconsistent with the provisions of this Act,
22 to the extent such revision is consistent with protection
23 of the human, marine, and coastal environments. The
24 process to be used for the review of any such revision shall
25 be the same as that set forth in subsections (d) and (e).

1 “(g) CANCELLATION OF LEASE ON FAILURE TO SUB-
2 MIT PLAN OR COMPLY WITH A PLAN.—Whenever the
3 owner of any lease fails to submit a plan in accordance
4 with regulations issued under this section, or fails to com-
5 ply with a plan, the lease may be canceled in accordance
6 with section 5(c) and (d). Termination of a lease because
7 of failure to comply with a plan, including required modi-
8 fications or revisions, shall not entitle a lessee to any com-
9 pensation.

10 “(h) PRODUCTION AND TRANSPORTATION OF NAT-
11 URAL GAS; SUBMISSION OF PLAN TO FEDERAL ENERGY
12 REGULATORY COMMISSION; IMPACT STATEMENT.—If any
13 development and production plan submitted to the Sec-
14 retary pursuant to this section provides for the production
15 and transportation of natural gas, the lessee shall contem-
16 poraneously submit to the Federal Energy Regulatory
17 Commission that portion of such plan that relates to the
18 facilities for transportation of natural gas. The Secretary
19 and the Federal Energy Regulatory Commission shall
20 agree as to which of them shall prepare an environmental
21 impact statement pursuant to the National Environmental
22 Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable
23 to such portion of such plan, or conduct studies as to the
24 effect on the environment of implementing it. Thereafter,
25 the findings and recommendations by the agency pre-

1 paring such environmental impact statement or con-
2 ducting such studies pursuant to such agreement shall be
3 adopted by the other agency, and such other agency shall
4 not independently prepare another environmental impact
5 statement or duplicate such studies with respect to such
6 portion of such plan, but the Federal Energy Regulatory
7 Commission, in connection with its review of an applica-
8 tion for a certificate of public convenience and necessity
9 applicable to such transportation facilities pursuant to sec-
10 tion 7 of the Natural Gas Act (15 U.S.C. 717f), may pre-
11 pare such environmental studies or statement relevant to
12 certification of such transportation facilities as have not
13 been covered by an environmental impact statement or
14 studies prepared by the Secretary. The Secretary, in con-
15 sultation with the Federal Energy Regulatory Commis-
16 sion, shall promulgate rules to implement this subsection,
17 but the Federal Energy Regulatory Commission shall re-
18 tain sole authority with respect to rules and procedures
19 applicable to the filing of any application with the Com-
20 mission and to all aspects of the Commission's review of,
21 and action on, any such application."

1 **SEC. 6514. FEDERAL ENERGY NATURAL RESOURCES EN-**
2 **HANCEMENT FUND ACT OF 2005.**

3 (a) SHORT TITLE.—This section may be cited as the
4 “Federal Energy Natural Resources Enhancement Fund
5 Act of 2005”.

6 (b) FINDINGS.—The Congress finds the following:

7 (1) Energy and minerals exploration, develop-
8 ment, and production on Federal onshore and off-
9 shore lands, including bio-based fuel, natural gas,
10 minerals, oil, geothermal, and power from wind,
11 waves, currents, and thermal energy, involves signifi-
12 cant outlays of funds by Federal and State wildlife,
13 fish, and natural resource management agencies for
14 environmental studies, planning, development, moni-
15 toring, and management of wildlife, fish, air, water,
16 and other natural resources.

17 (2) State wildlife, fish, and natural resource
18 management agencies are funded primarily through
19 permit and license fees paid to the States by the
20 general public to hunt and fish, and through Federal
21 excise taxes on equipment used for these activities.

22 (3) Funds generated from consumptive and rec-
23 reational uses of wildlife, fish, and other natural re-
24 sources currently are inadequate to address the nat-
25 ural resources related to energy and minerals devel-
26 opment on Federal onshore and offshore lands.

1 (4) Funds available to Federal agencies respon-
2 sible for managing Federal onshore and offshore
3 lands and Federal-trust wildlife and fish species and
4 their habitats are inadequate to address the natural
5 resources related to energy and minerals develop-
6 ment on Federal onshore and offshore lands.

7 (5) Receipts derived from sales, bonus bids, and
8 royalties under the mineral leasing laws of the
9 United States are paid to the Treasury through the
10 Minerals Management Service of the Department of
11 the Interior.

12 (6) None of the receipts derived from sales,
13 bonus bids, and royalties under the minerals leasing
14 laws of the United States are paid to the Federal or
15 State agencies to examine, monitor, and manage
16 wildlife, fish, air, water, and other natural resources
17 related to natural gas, oil, and mineral exploration
18 and development.

19 (c) PURPOSES.—It is the purpose of this section to—

20 (1) establish a fund for the monitoring and
21 management of wildlife and fish, and their habitats,
22 and air, water, and other natural resources related
23 to energy and minerals development on Federal on-
24 shore and offshore lands;

1 (2) make available receipts derived from sales,
2 bonus bids, and royalties from onshore and offshore
3 gas, mineral, oil, and any additional form of energy
4 exploration and development under the laws of the
5 United States for the purposes of such fund;

6 (3) distribute funds from such fund each fiscal
7 year to the Secretary of the Interior and the States;
8 and

9 (4) use the distributed funds to secure the nec-
10 essary trained workforce or contractual services to
11 conduct environmental studies, planning, develop-
12 ment, monitoring, and post-development manage-
13 ment of wildlife and fish and their habitats and air,
14 water, and other natural resources that may be re-
15 lated to bio-based fuel, gas, mineral, oil, wind, or
16 other energy exploration, development, transpor-
17 tation, transmission, and associated activities on
18 Federal onshore and offshore lands, including, but
19 not limited to—

20 (A) pertinent research, surveys, and envi-
21 ronmental analyses conducted to identify any
22 impacts on wildlife, fish, air, water, and other
23 natural resources from energy and mineral ex-
24 ploration, development, production, and trans-
25 portation or transmission;

1 (B) projects to maintain, improve, or en-
2 hance wildlife and fish populations and their
3 habitats or air, water, or other natural re-
4 sources, including activities under the Endan-
5 gered Species Act of 1973;

6 (C) research, surveys, environmental anal-
7 yses, and projects that assist in managing, in-
8 cluding mitigating either onsite or offsite, or
9 both, the impacts of energy and mineral activi-
10 ties on wildlife, fish, air, water, and other nat-
11 ural resources; and

12 (D) projects to teach young people to live
13 off the land.

14 (d) DEFINITIONS.—In this section:

15 (1) ENHANCEMENT FUND.—The term “En-
16 hancement Fund” means the Federal Energy Nat-
17 ural Resources Enhancement Fund established by
18 subsection (e).

19 (2) STATE.—The term “State” means the State
20 government agency primarily responsible for fish
21 and wildlife trust resources within a State.

22 (e) ESTABLISHMENT AND USE OF FEDERAL ENERGY
23 NATURAL RESOURCES ENHANCEMENT FUND.—

24 (1) ENHANCEMENT FUND.—There is estab-
25 lished in the Treasury a separate account to be

1 known as the “Federal Energy Natural Resources
2 Enhancement Fund”.

3 (2) FUNDING.—The Secretary of the Treasury
4 shall deposit in the Enhancement Fund—

5 (A) such sums as are provided by sections
6 9(b)(4)(A)(ii), 9(b)(4)(B)(ii), 9(c)(4)(A)(ii), and
7 9(c)(4)(B)(ii) of the Outer Continental Shelf
8 Lands Act, as amended by this Act;

9 (B)(i) during the period of October 1,
10 2006, through September 30, 2015, 0.5 percent
11 of all sums paid into the Treasury under sec-
12 tion 35 of the Mineral Leasing Act (30 U.S.C.
13 191), and

14 (ii) beginning October 1, 2015, and there-
15 after, 2.5 percent of all sums paid into the
16 Treasury under section 35 of the Mineral Leas-
17 ing Act (30 U.S.C. 191); and

18 (C)(i) during the period of October 1,
19 2006, through September 30, 2015, 0.5 percent
20 of all sums paid into the Treasury from receipts
21 derived from bonus bids and royalties from
22 other mineral leasing on public lands, and

23 (ii) beginning October 1, 2015, and there-
24 after, 2.5 percent of all sums paid into the
25 Treasury from receipts derived from bonus bids

1 and royalties from other mineral leasing on
2 public lands.

3 (3) INVESTMENTS.—The Secretary of the
4 Treasury shall invest the amounts deposited under
5 paragraph (2) and all accrued interest on the
6 amounts deposited under paragraph (2) only in in-
7 terest bearing obligations of the United States or in
8 obligations guaranteed as to both principal and in-
9 terest by the United States.

10 (4) PAYMENT TO SECRETARY OF THE INTE-
11 RIOR.—

12 (A) IN GENERAL.—Beginning with fiscal
13 year 2007, and in each fiscal year thereafter,
14 one-third of amounts deposited into the En-
15 hancement Fund, together with the interest
16 thereon, shall be available, without fiscal year
17 limitations, to the Secretary of the Interior for
18 use for the purposes described in (c)(4).

19 (B) WITHDRAWALS AND TRANSFER OF
20 FUNDS.—The Secretary of the Treasury shall
21 withdraw such amounts from the Enhancement
22 Fund as the Secretary of the Interior may re-
23 quest, subject to the limitation in (A), and
24 transfer such amounts to the Secretary of the
25 Interior to be used, at the discretion of the Sec-

1 retary of the Interior, by the Minerals Manage-
2 ment Service, the Bureau of Land Manage-
3 ment, and the United States Fish and Wildlife
4 Service for use for the purposes described in
5 subsection (c)(4).

6 (5) PAYMENT TO STATES.—

7 (A) IN GENERAL.—Beginning with fiscal
8 year 2007, and in each fiscal year thereafter,
9 two-thirds of amounts deposited into the En-
10 hancement Fund, together with the interest
11 thereon, shall be available, without fiscal year
12 limitations, to the States for use for the pur-
13 poses described in (c)(4).

14 (B) WITHDRAWALS AND TRANSFER OF
15 FUNDS.—Within the first 90 days of each fiscal
16 year, the Secretary of the Treasury shall with-
17 draw amounts from the Enhancement Fund
18 and transfer such amounts to the States based
19 on the proportion of all receipts that were col-
20 lected the previous fiscal year from Federal
21 leases within the boundaries of each State and
22 each State's outer Continental Shelf Adjacent
23 Zone as determined in accordance with section
24 4(a) of the Outer Continental Shelf Lands Act
25 (43 U.S.C. 1333(a)), as amended by this Act.

1 (C) USE OF PAYMENTS BY STATE.—Each
2 State shall use the payments made under sub-
3 paragraph (B) only for carrying out projects
4 and programs for the purposes described in
5 (c)(4).

6 (D) ENCOURAGE USE OF PRIVATE FUNDS
7 BY STATE.—Each State shall use the payments
8 made under subparagraph (B) to leverage pri-
9 vate funds for carrying out projects for the pur-
10 poses described in (c)(4).

11 (f) LIMITATION ON USE.—Amounts available under
12 this section may not be used for the purchase of any inter-
13 est in land.

14 (g) REPORTS TO CONGRESS.—

15 (1) IN GENERAL.—Beginning in fiscal year
16 2008 and continuing for each fiscal year thereafter,
17 the Secretary of the Interior and each State receiv-
18 ing funds from the Enhancement Fund shall submit
19 a report to the Committee on Energy and Natural
20 Resources of the Senate and the Committee on Re-
21 sources of the House of Representatives.

22 (2) REQUIRED INFORMATION.—Reports sub-
23 mitted to the Congress by the Secretary of the Inte-
24 rior and States under this subsection shall include

1 the following information regarding expenditures
2 during the previous fiscal year:

3 (A) A summary of pertinent scientific re-
4 search and surveys conducted to identify im-
5 pacts on wildlife, fish, and other natural re-
6 sources from energy and mineral developments.

7 (B) A summary of projects planned and
8 completed to maintain, improve or enhance
9 wildlife and fish populations and their habitats
10 or other natural resources.

11 (C) A list of additional actions that assist,
12 or would assist, in managing, including miti-
13 gating either onsite or offsite, or both, the im-
14 pacts of energy and mineral development on
15 wildlife, fish, and other natural resources.

16 (D) A summary of private (non-Federal)
17 funds used to plan, conduct, and complete the
18 plans and programs identified in paragraphs
19 (2)(A) and (2)(B).

20 **SEC. 6515. TERMINATION OF EFFECT OF LAWS PROHIB-**
21 **ITING THE SPENDING OF APPROPRIATED**
22 **FUNDS FOR CERTAIN PURPOSES.**

23 All provisions of existing Federal law prohibiting the
24 spending of appropriated funds to conduct oil and natural

1 gas leasing and preleasing activities for any area of the
2 outer Continental Shelf shall have no force or effect.

3 **SEC. 6516. OUTER CONTINENTAL SHELF INCOMPATIBLE**
4 **USE.**

5 (a) IN GENERAL.—No Federal agency may permit
6 construction or operation (or both) of any facility, or des-
7 ignate or maintain a restricted transportation corridor or
8 operating area on the Federal outer Continental Shelf or
9 in State waters, that will be incompatible with, as deter-
10 mined by the Secretary of the Interior, oil and gas or nat-
11 ural gas leasing and substantially full exploration and pro-
12 duction of tracts that are geologically prospective for oil
13 or natural gas (or both), unless the facility, transportation
14 corridor, or operating area, respectively, is to be located
15 in an area of the outer Continental Shelf that is unavail-
16 able for oil and gas or natural gas leasing by operation
17 of law.

18 (b) EXCEPTIONS.—The President may grant an ex-
19 ception to subsection (a) after a finding that such excep-
20 tion is required in the national interest.

21 **SEC. 6517. REPURCHASE OF CERTAIN LEASES.**

22 (a) AUTHORITY TO REPURCHASE AND CANCEL CER-
23 TAIN LEASES.—The Secretary of the Interior shall repur-
24 chase and cancel any Federal oil and gas, geothermal,
25 coal, oil shale, tar sands, or other mineral lease, whether

1 onshore or offshore, if the Secretary finds that such lease
2 qualifies for repurchase and cancellation under the regula-
3 tions authorized by this section.

4 (b) REGULATIONS.—Not later than 365 days after
5 the date of the enactment of this Act, the Secretary shall
6 publish a final regulation stating the conditions under
7 which a lease referred to in subsection (a) would qualify
8 for repurchase and cancellation, and the process to be fol-
9 lowed regarding repurchase and cancellation. Such regula-
10 tion shall include, but not be limited to, the following:

11 (1) The Secretary shall repurchase and cancel
12 a lease after written request by the lessee upon a
13 finding by the Secretary that—

14 (A) a request by the lessee for a required
15 permit or other approval complied with applica-
16 ble law, except the Coastal Zone Management
17 Act of 1972 (16 U.S.C. 1451 et seq.), and
18 terms of the lease and such permit or other ap-
19 proval was denied;

20 (B) a Federal agency failed to act on a re-
21 quest by the lessee for a required permit, other
22 approval, or administrative appeal within a reg-
23 ulatory or statutory time-frame associated with
24 the requested action, whether advisory or man-
25 datory, or if none, within 180 days; or

1 (C) a Federal agency attached a condition
2 of approval, without agreement by the lessee, to
3 a required permit or other approval if such con-
4 dition of approval was not mandated by Federal
5 statute or regulation in effect on the date of
6 lease issuance, or was not specifically allowed
7 under the terms of the lease.

8 (2) A lessee shall not be required to exhaust ad-
9 ministrative remedies regarding a permit request,
10 administrative appeal, or other required request for
11 approval for the purposes of this section.

12 (3) The Secretary shall make a final agency de-
13 cision on a request by a lessee under this section
14 within 180 days of request.

15 (4) Compensation to a lessee to repurchase and
16 cancel a lease under this section shall be the amount
17 that a lessee would receive in a restitution case for
18 a material breach of contract.

19 (5) Compensation shall be in the form of a
20 check or electronic transfer from the Department of
21 the Treasury from funds deposited into miscella-
22 neous receipts under the authority of the same Act
23 that authorized the issuance of the lease being re-
24 purchased.

1 (6) Failure of the Secretary to make a final
2 agency decision on a request by a lessee under this
3 section within 180 days of request shall result in a
4 10 percent increase in the compensation due to the
5 lessee if the lease is ultimately repurchased.

6 (c) NO PREJUDICE.—This section shall not be inter-
7 preted to prejudice any other rights that the lessee would
8 have in the absence of this section.

9 **SEC. 6518. OFFSITE ENVIRONMENTAL MITIGATION.**

10 Notwithstanding any other provision of law, any per-
11 son conducting activities under the Mineral Leasing Act
12 (30 U.S.C. 181 et seq.), the Geothermal Steam Act (30
13 U.S.C. 1001 et seq.), the Mineral Leasing Act for Ac-
14 quired Lands (30 U.S.C. 351 et seq.), the Weeks Act (16
15 U.S.C. 552 et seq.), the General Mining Act of 1872 (30
16 U.S.C. 22 et seq.), the Materials Act of 1947 (30 U.S.C.
17 601 et seq.), or the Outer Continental Shelf Lands Act
18 (43 U.S.C. 1331 et seq.), may in satisfying any mitigation
19 requirements associated with such activities propose miti-
20 gation measures on a site away from the area impacted
21 and the Secretary of the Interior shall accept these pro-
22 posed measures if the Secretary finds that they generally
23 achieve the purposes for which mitigation measures apper-
24 tained.

1 **SEC. 6519. AMENDMENTS TO THE MINERAL LEASING ACT.**

2 Section 17(g) of the Mineral Leasing Act (30 U.S.C.
3 226(g)) is amended to read as follows:

4 “(g) REGULATION OF SURFACE-DISTURBING ACTIVI-
5 TIES.—

6 “(1) REGULATION OF SURFACE-DISTURBING
7 ACTIVITIES.—The Secretary of the Interior, or for
8 National Forest lands, the Secretary of Agriculture,
9 shall regulate all surface-disturbing activities con-
10 ducted pursuant to any lease issued under this Act,
11 and shall determine reclamation and other actions as
12 required in the interest of conservation of surface re-
13 sources.

14 “(2) SUBMISSION OF EXPLORATION PLAN; COM-
15 PLETION REVIEW; COMPLIANCE REVIEW.—

16 “(A) Prior to beginning oil and gas explo-
17 ration activities, a lessee shall submit an explo-
18 ration plan to the Secretary of the Interior for
19 review.

20 “(B) The Secretary shall review the plan
21 for completeness within 10 days of submission.

22 “(C) In the event the exploration plan is
23 determined to be incomplete, the Secretary shall
24 notify the lessee in writing and specify the
25 items or information needed to complete the ex-
26 ploration plan.

1 “(D) The Secretary shall have 10 days to
2 review any modified exploration plan submitted
3 by the lessee.

4 “(E) To be deemed complete, an explo-
5 ration plan shall include, in the degree of detail
6 to be determined by the Secretary by rule or
7 regulation—

8 “(i) a drilling plan containing a de-
9 scription of the drilling program;

10 “(ii) the surface and projected com-
11 pletion zone location;

12 “(iii) pertinent geologic data;

13 “(iv) expected hazards, and proposed
14 mitigation measures to address such haz-
15 ards;

16 “(v) a schedule of anticipated explo-
17 ration activities to be undertaken;

18 “(vi) a description of equipment to be
19 used for such activities;

20 “(vii) a certification from the lessee
21 stating that the exploration plan complies
22 with all lease, regulatory and statutory re-
23 quirements in effect on the date of the
24 issuance of the lease;

1 “(viii) evidence that the lessee has se-
2 cured an adequate bond, surety, or other
3 financial arrangement prior to commence-
4 ment of any surface disturbing activity;

5 “(ix) a plan that details the complete
6 and timely reclamation of the lease tract;
7 and

8 “(x) such other relevant information
9 as the Secretary may by regulation require.

10 “(F) Upon a determination that the explo-
11 ration plan is complete, the Secretary shall have
12 30 days from the date the plan is deemed com-
13 plete to conduct a review of the plan.

14 “(G) If the Secretary finds the exploration
15 plan is not consistent with all statutory and
16 regulatory requirements in effect on the date of
17 issuance of the lease, the Secretary shall notify
18 the lessee with a detailed explanation of such
19 modifications of the exploration plan as are nec-
20 essary to achieve compliance.

21 “(H) The lessee shall not take any action
22 under the exploration plan within a 30 day re-
23 view period, or thereafter until the plan has
24 been modified to achieve compliance as so noti-
25 fied.

1 “(I) After review by the Secretary provided
2 by this subsection, a lessee may operate pursu-
3 ant to the plan without further review or ap-
4 proval by the Secretary.

5 “(3) PLAN REVISIONS; CONDUCT OF EXPLO-
6 RATION ACTIVITIES.—

7 “(A) If a significant revision of an explo-
8 ration plan under this subsection is submitted
9 to the Secretary, the process to be used for the
10 review of such revision shall be the same as set
11 forth in paragraph (1) of this subsection.

12 “(B) All exploration activities pursuant to
13 any lease shall be conducted in accordance with
14 an exploration plan that has been submitted to
15 and reviewed by the Secretary or a revision of
16 such plan.

17 “(4) SUBMISSION OF DEVELOPMENT AND PRO-
18 DUCTION PLAN; COMPLETENESS REVIEW; COMPLI-
19 ANCE REVIEW.—

20 “(A) Prior to beginning oil and gas devel-
21 opment and production activities, a lessee shall
22 submit a development and exploration plan to
23 the Secretary of the Interior. Upon submission,
24 such plans shall be subject to a review for com-
25 pleteness.

1 “(B) The Secretary shall review the plan
2 for completeness within 30 days of submission.

3 “(C) In the event a development and pro-
4 duction plan is determined to be incomplete, the
5 Secretary shall notify the lessee in writing and
6 specify the items or information needed to com-
7 plete the plan.

8 “(D) The Secretary shall have 30 days to
9 review for completeness any modified develop-
10 ment and production plan submitted by the les-
11 see.

12 “(E) To be deemed complete, a develop-
13 ment and production plan shall include, in the
14 degree of detail to be determined by the Sec-
15 retary by rule or regulation—

16 “(i) a drilling plan containing a de-
17 scription of the drilling program;

18 “(ii) the surface and projected com-
19 pletion zone location;

20 “(iii) pertinent geologic data;

21 “(iv) expected hazards, and proposed
22 mitigation measures to address such haz-
23 ards;

24 “(v) a statement describing all facili-
25 ties and operations proposed by the lessee

1 and known by the lessee (whether or not
2 owned or operated by such lessee) that
3 shall be constructed or utilized in the de-
4 velopment and production of oil or gas
5 from the leases areas, including the loca-
6 tion and site of such facilities and oper-
7 ations, the land, labor, material, and en-
8 ergy requirements associated with such fa-
9 cilities and operations;

10 “(vi) the general work to be per-
11 formed;

12 “(vii) the environmental safeguards to
13 be implemented in connection with the de-
14 velopment and production and how such
15 safeguards are to be implemented;

16 “(viii) all safety standards to be met
17 and how such standards are to be met;

18 “(ix) an expected rate of development
19 and production and a time schedule for
20 performance;

21 “(x) a certification from the lessee
22 stating that the development and produc-
23 tion plan complies with all lease, regu-
24 latory, and statutory requirements in effect
25 on the date of issuance of the lease;

1 “(xi) evidence that the lessee has se-
2 cured an adequate bond, surety, or other
3 financial arrangement prior to commence-
4 ment of any surface disturbing activity;

5 “(xii) a plan that details the complete
6 and timely reclamation of the lease tract;
7 and

8 “(xiii) such other relevant information
9 as the Secretary may by regulation require.

10 “(F) Upon a determination that the devel-
11 opment and production plan is complete, the
12 Secretary shall have 120 days from the date the
13 plan is deemed complete to conduct a review of
14 the plan.

15 “(G) If the Secretary finds the develop-
16 ment and production plan is not consistent with
17 all statutory and regulatory requirements in ef-
18 fect on the date of issuance of the lease, the
19 Secretary shall notify the lessee with a detailed
20 explanation of such modifications of the devel-
21 opment and production plan as are necessary to
22 achieve compliance.

23 “(H) The lessee shall not take any action
24 under the development and production plan
25 within a 120 day review period, or thereafter

1 until the plan has been modified to achieve
2 compliance as so notified.

3 “(5) PLAN REVISIONS; CONDUCT OF DEVELOP-
4 MENT AND PRODUCTION ACTIVITIES.—

5 “(A) If a significant revision of a develop-
6 ment and production plan under this subsection
7 is submitted to the Secretary, the process to be
8 used for the review of such revision shall be the
9 same as set forth in paragraph (4) of this sub-
10 section.

11 “(B) All development and production ac-
12 tivities pursuant to any lease shall be conducted
13 in accordance with an exploration plan that has
14 been submitted to and reviewed by the Sec-
15 retary or a revision of such plan.

16 “(6) CANCELLATION OF LEASE ON FAILURE TO
17 SUBMIT PLAN OR COMPLY WITH APPROVED PLAN.—

18 Whenever the owner of any lease fails to submit a
19 plan in accordance with regulations issued under
20 this section, or fails to comply with a plan, the lease
21 may be canceled in accordance with section 31. Ter-
22 mination of a lease because of failure to comply with
23 a plan, including required modifications or revisions,
24 shall not entitle a lessee to any compensation.”.

1 **SEC. 6520. MINERALS MANAGEMENT SERVICE.**

2 The bureau known as the “Minerals Management
3 Service” in the Department of the Interior shall be known
4 as the “National Ocean Energy and Royalty Service”. The
5 Director of such shall be assisted by only one deputy direc-
6 tor, who shall be a non-career employee within the Senior
7 Executive Service.

8 **SEC. 6521. AUTHORITY TO USE DECOMMISSIONED OFF-**
9 **SHORE OIL AND GAS PLATFORMS AND**
10 **OTHER FACILITIES FOR MARICULTURE, ARTI-**
11 **FICIAL REEF, SCIENTIFIC RESEARCH, OR**
12 **OTHER USES.**

13 (a) SHORT TITLE.—This section may be cited as the
14 “Rigs to Reefs Act of 2005”.

15 (b) IN GENERAL.—The Outer Continental Shelf
16 Lands Act (43 U.S.C. 1301 et seq.) is amended by insert-
17 ing after section 9 the following:

18 **“SEC. 10. USE OF DECOMMISSIONED OFFSHORE OIL AND**
19 **GAS PLATFORMS AND OTHER FACILITIES**
20 **FOR MARICULTURE, ARTIFICIAL REEF, SCI-**
21 **ENTIFIC RESEARCH, OR OTHER USES.**

22 “(a) IN GENERAL.—The Secretary shall issue regula-
23 tions under which the Secretary may authorize use of an
24 offshore oil and gas platform or other facility that is de-
25 commissioned from service for oil and gas purposes for

1 culture of marine organisms, an artificial reef, scientific
2 research, or any other use authorized under section 8(p).

3 “(b) TRANSFER REQUIREMENTS.—The Secretary
4 shall not allow the transfer of a decommissioned offshore
5 oil and gas platform or other facility to another person
6 unless the Secretary is satisfied that the transferee is suf-
7 ficiently bonded, endowed, or otherwise financially able to
8 fulfill its obligations, including but not limited to—

9 “(1) ongoing maintenance of the platform or
10 other facility;

11 “(2) any liability obligations that might arise;

12 “(3) removal of the platform or other facility if
13 determined necessary by the Secretary; and

14 “(4) any other requirements and obligations
15 that the Secretary may deem appropriate by regula-
16 tion.

17 “(c) PLUGGING AND ABANDONMENT.—The Sec-
18 retary shall ensure that obligations of a lessee regarding
19 the plugging and abandonment of wells are unaffected by
20 implementation of this section.

21 “(d) POTENTIAL TO PETITION TO OPT-OUT OF REG-
22 ULATIONS.—An Adjacent State acting through a resolu-
23 tion of its legislature, with concurrence of its Governor,
24 may petition to opt-out of the application of regulations
25 promulgated under this section to platforms and other fa-

1 cilities located in the area of its Adjacent Zone within 25
2 miles of the coastline. The Secretary is authorized to ex-
3 cept such area from the application of such regulations,
4 and shall approve such petition, unless the Secretary finds
5 that approving the petition would probably cause serious
6 harm or damage to the marine resources of the State's
7 Adjacent Zone. Prior to acting on the petition, the Sec-
8 retary shall complete an environmental assessment that
9 documents the anticipated environmental effects of ap-
10 proving the petition.

11 “(e) LIMITATION ON LIABILITY.—A person that had
12 used an offshore oil and gas platform or other facility for
13 oil and gas purposes and that no longer has any ownership
14 or control of the platform or other facility shall not be
15 liable under Federal law for any costs or damages arising
16 from such platform or other facility after the date the plat-
17 form or other facility is used for any purpose under sub-
18 section (a), unless such costs or damages arise from—

19 “(1) use of the platform or other facility by the
20 person for development or production of oil or gas;
21 or

22 “(2) another act or omission of the person.

23 “(f) OTHER LEASING AND USE NOT AFFECTED.—
24 This section, and the use of any offshore oil and gas plat-

1 form or other facility for any purpose under subsection
2 (a), shall not affect—

3 “(1) the authority of the Secretary to lease any
4 area under this Act; or

5 “(2) any activity otherwise authorized under
6 this Act.”.

7 (c) DEADLINE FOR REGULATIONS.—The Secretary of
8 the Interior shall issue regulations under subsection (b)
9 by not later than 180 days after the date of the enactment
10 of this Act.

11 (d) STUDY AND REPORT ON EFFECTS OF REMOVAL
12 OF PLATFORMS.—Not later than one year after the date
13 of enactment of this Act, the Secretary of the Interior,
14 in consultation with other Federal agencies as the Sec-
15 retary deems advisable, shall study and report to the Con-
16 gress regarding how the removal of offshore oil and gas
17 platforms and other facilities from the outer Continental
18 Shelf would affect existing fish stocks and coral popu-
19 lations.

20 **SEC. 6522. REPEAL OF REQUIREMENT TO CONDUCT COM-**
21 **PREHENSIVE INVENTORY OF OCS OIL AND**
22 **NATURAL GAS RESOURCES.**

23 The Energy Policy Act of 2005 (Public Law 109–
24 58) is amended—

1 (1) by repealing section 357 (119 Stat. 720; 42
2 U.S.C. 15912); and

3 (2) in the table of contents in section 1(b), by
4 striking the item relating to such section 357.

5 **SEC. 6523. MINING AND PETROLEUM SCHOOLS.**

6 (a) FEDERAL ENERGY AND MINERAL RESOURCES
7 PROFESSIONAL DEVELOPMENT FUND.—

8 (1) PROFESSIONAL DEVELOPMENT FUND.—

9 There is established in the Treasury a separate ac-
10 count to be known as the “Federal Energy And
11 Mineral Resources Professional Development Fund”
12 (in this section referred to as the “Professional De-
13 velopment Fund”).

14 (2) FUNDING.—The Secretary of the Treasury
15 shall deposit in the Professional Development
16 Fund—

17 (A) such sums as are provided by sections
18 9(b)(4)(A)(iii), 9(b)(4)(B)(iii), 9(c)(4)(A)(iii),
19 and 9(c)(4)(B)(iii) of the Outer Continental
20 Shelf Lands Act, as amended by this Act;

21 (B)(i) during the period of October 1,
22 2006, through September 30, 2015, 0.4 percent
23 of all sums paid into the Treasury under sec-
24 tion 35 of the Mineral Leasing Act (30 U.S.C.
25 191), and

1 (ii) beginning October 1, 2015, and there-
2 after, 2.0 percent of all sums paid into the
3 Treasury under section 35 of the Mineral Leas-
4 ing Act (30 U.S.C. 191);

5 (C)(i) during the period of October 1,
6 2006, through September 30, 2015, 0.4 percent
7 of all sums paid into the Treasury from receipts
8 derived from bonus bids and royalties from
9 other mineral leasing on public lands, and

10 (ii) beginning October 1, 2015, and there-
11 after, 2.0 percent of all sums paid into the
12 Treasury from receipts derived from bonus bids
13 and royalties from other mineral leasing on
14 public lands;

15 (D) donations received under paragraph
16 (4);

17 (E) amounts referred to in section
18 2325(d)(1) of the Revised Statutes, as amended
19 by this Act; and

20 (F) funds received under section 10 of the
21 Energy and Mineral Schools Reinvestment Act,
22 as amended by this Act.

23 (3) INVESTMENTS.—The Secretary of the
24 Treasury shall invest the amounts deposited under
25 paragraph (2) and all accrued interest on the

1 amounts deposited under paragraph (2) only in in-
2 terest bearing obligations of the United States or in
3 obligations guaranteed as to both principal and in-
4 terest by the United States.

5 (4) DONATIONS.—The Secretary of the Interior
6 may solicit and accept donations of funds for deposit
7 into the Professional Development Fund.

8 (5) AVAILABILITY TO SECRETARY OF THE IN-
9 TERIOR.—

10 (A) IN GENERAL.—Beginning with fiscal
11 year 2007, and in each fiscal year thereafter,
12 the amounts deposited into the Professional De-
13 velopment Fund, together with the interest
14 thereon, shall be available, without fiscal year
15 limitations, to the Secretary of the Interior for
16 use to carry out the Energy and Mineral
17 Schools Reinvestment Act.

18 (B) WITHDRAWALS AND TRANSFER OF
19 FUNDS.—The Secretary of the Treasury shall
20 withdraw such amounts from the Professional
21 Development Fund as the Secretary of the Inte-
22 rior may request and transfer such amounts to
23 the Secretary of the Interior to be used, at the
24 discretion of the Secretary to carry out the En-
25 ergy and Mineral Schools Reinvestment Act.

1 (b) MAINTENANCE AND RESTORATION OF EXISTING
2 AND HISTORIC PETROLEUM AND MINING ENGINEERING
3 PROGRAMS.—Public Law 98–409 (30 U.S.C. 1221 et
4 seq.) is amended to read as follows:

5 **“SEC. 1. SHORT TITLE.**

6 “This Act may be cited as the ‘Energy and Mineral
7 Schools Reinvestment Act’.

8 **“SEC. 2. POLICY.**

9 “It is the policy of the United States to maintain the
10 human capital needed to preserve and foster the economic,
11 energy, and mineral resources security of the United
12 States. The petroleum and mining engineering programs
13 and the applied geology and geophysics programs at State
14 chartered schools, universities, and institutions that
15 produce human capital are national assets and should be
16 assisted with Federal funds to ensure their continued
17 health and existence.

18 **“SEC. 3. MAINTAINING AND RESTORING HISTORIC AND EX-**
19 **ISTING PETROLEUM AND MINING ENGINEER-**
20 **ING EDUCATION PROGRAMS.**

21 “(a) Using the funds in the Federal Energy And Min-
22 eral Resources Professional Development Fund, the Sec-
23 retary of the Interior (in this Act referred to as the ‘Sec-
24 retary’) shall provide funds to each historic and existing
25 State-chartered recognized petroleum or mining school to

1 assist such schools, universities, and institutions in main-
2 taining programs in petroleum, mining, and mineral engi-
3 neering education and research. All funds shall be directed
4 only to these programs and shall be subject to the condi-
5 tions of this section. Such funds shall not be less than
6 35 percent of the annual outlay of funds under this Act.

7 “(b) In this Act the term ‘historic and existing State-
8 chartered recognized petroleum or mining school’ means
9 a school, university, or educational institution with the
10 presence of an engineering program meeting the specific
11 program criteria, established by the member societies of
12 ABET, Inc., for petroleum, mining, or mineral engineer-
13 ing and that is accredited on the date of enactment of
14 the Ocean State Options Act of 2005 by ABET, Inc.

15 “(c) It shall be the duty of each school, university,
16 or institution receiving funds under this section to provide
17 for the training of undergraduate and graduate petroleum,
18 mining, and mineral engineers through research, inves-
19 tigations, demonstrations, and experiments. All such work
20 shall be carried out in a manner that will enhance under-
21 graduate education.

22 “(d) Each school, university, or institution receiving
23 funds under this Act shall maintain the program for which
24 the funds are provided for 10 years after the date of the
25 first receipt of such funds take steps agreed to by the Sec-

1 retary, to increase the number of undergraduate students
2 enrolled in and completing the programs of study in petro-
3 leum, mining, and mineral engineering.

4 “(e) The research, investigation, demonstration, ex-
5 periment, and training authorized by this section may in-
6 clude development and production of conventional and
7 non-conventional fuel resources, the production of metallic
8 and non-metallic mineral resources, and the production of
9 stone, sand, and gravel. In all cases the work carried out
10 with funds made available under this Act shall include a
11 significant opportunity for participation by undergraduate
12 students.

13 “(f) Research funded by this Act related to energy
14 and mineral resource development and production may in-
15 clude studies of petroleum, mining, and mineral extraction
16 and immediately related beneficiation technology; mineral
17 economics, reclamation technology and practices for active
18 operations, and the development of re-mining systems and
19 technologies to facilitate reclamation that fosters the ulti-
20 mate recovery of resources at abandoned petroleum, min-
21 ing, and aggregate production sites.

22 “(g) Grants for basic science and engineering studies
23 and research shall not require additional participation by
24 funding partners. Grants for studies to demonstrate the
25 proof of concept for science and engineering or the dem-

1 onstration of feasibility and implementation shall include
2 participation by industry and may include funding from
3 other Federal agencies.

4 “(h)(1) No funds made available under this section
5 shall be applied to the acquisition by purchase or lease
6 of any land or interests therein, or the rental, purchase,
7 construction, preservation, or repair of any building.

8 “(2) Funding made available under this section may
9 be used with the express approval of the Secretary for pro-
10 posals that will provide for maintaining or upgrading of
11 existing laboratories and laboratory equipment. Funding
12 for such maintenance shall not be used for university over-
13 head expenses.

14 “(3) Funding made available under this Act may be
15 used for maintaining and upgrading university-owned
16 mines and oil and gas drilling rigs used for undergraduate
17 and graduate training and mine safety training for the
18 industry. All requests for funding such mines and oil and
19 gas drilling rigs must demonstrate that they have been
20 owned by the university for 5 years prior to the date of
21 enactment of the Ocean State Options Act of 2005 and
22 have been actively used for instructional purposes during
23 that time.

24 “(4) Any funding made available under this section
25 for research, investigation, demonstration, experiment, or

1 training shall not be used for university overhead charges
2 in excess of 10 percent of the amount authorized by the
3 Secretary.

4 **“SEC. 4. FORMER PETROLEUM AND MINING ENGINEERING**
5 **PROGRAMS.**

6 “A school, university, or educational institution that
7 formerly met the requirements of section 3(b) of this Act
8 immediately before the date of the enactment of the Off-
9 shore State Options Act of 2004 shall be eligible for fund-
10 ing under this Act only if it—

11 “(1) establishes a petroleum, mining, or mineral
12 engineering program that meets the specific program
13 criteria and is accredited as such by ABET, Inc.;

14 “(2) agrees to the conditions of subsections (c),
15 (d), and (e) of section 3 and the Secretary, as ad-
16 vised by the Committee established by section 11,
17 determines that the program will strengthen and in-
18 crease the number of nationally available, well-
19 qualified faculty members in petroleum, mining, and
20 mineral engineering; and

21 “(3) agrees to maintain the accredited program
22 for 10 years after the date of the first receipt of
23 funds under this Act.

1 **“SEC. 5. FUNDING OF CONSORTIA OF HISTORIC AND EXIST-**
2 **ING SCHOOLS.**

3 “(a) Where appropriate, the Secretary may make
4 funds available to consortia of schools, universities, or in-
5 stitutions that include the historic and existing petroleum
6 and mining schools to meet the necessary expenses for
7 purposes of—

8 “(1) specific energy and mineral research
9 projects of broad application that could not other-
10 wise be undertaken, including the expenses of plan-
11 ning and coordinating regional petroleum, mining,
12 and mineral engineering projects by two or more
13 schools; and

14 “(2) research into any aspects of petroleum,
15 mining, or mineral engineering problems that are re-
16 lated to the mission of the Department of the Inte-
17 rior and that are considered by the Committee to be
18 desirable.

19 “(b) Each application for funds under subsection (a)
20 shall state, among other things, the nature of the project
21 to be undertaken; the period during which it will be pur-
22 sued; the qualifications of the personnel who will direct
23 and conduct it; the estimated costs; the importance of the
24 project to the Nation, region, or States concerned; its rela-
25 tion to other known research projects theretofore pursued
26 or being pursued; the extent to which the proposed project

1 will maximize the opportunity for the training of under-
2 graduate petroleum, mining, and mineral engineers; and
3 the extent of participation by nongovernmental sources in
4 the project.

5 “(c) No funds shall be made available under this sec-
6 tion except for a project approved by the Secretary. All
7 funds shall be made available upon the basis of merit of
8 the project, the need for the knowledge that it is expected
9 to produce when completed, and the opportunity it pro-
10 vides for the undergraduate training of individuals as pe-
11 troleum, mining, and mineral engineers.

12 **“SEC. 6. SUPPORT FOR SCHOOLS WITH ENERGY AND MIN-**
13 **ERAL RESOURCE PROGRAMS IN PETROLEUM**
14 **AND MINERAL EXPLORATION GEOLOGY, PE-**
15 **TROLEUM GEOPHYSICS, OR MINING GEO-**
16 **PHYSICS.**

17 “(a) Up to 20 percent of the annual outlay of funds
18 under this Act may be granted to schools, universities, and
19 institutions other than those described in sections 3, 4,
20 and 5.

21 “(b) The Secretary, as advised by the Committee es-
22 tablished by section 11, shall determine the eligibility of
23 a college or university to receive funding under this Act
24 using criteria that include—

1 “(1) the presence of a substantial program of
2 undergraduate and graduate instruction and re-
3 search in petroleum geology, mineral exploration ge-
4 ology, economic geology, mining geology, petroleum
5 geophysics, mining geophysics, geological engineer-
6 ing, or geophysical engineering that has a dem-
7 onstrated history of achievement;

8 “(2) evidence of institutional commitment for
9 the purposes of this Act that includes a significant
10 opportunity for participation by undergraduate stu-
11 dents;

12 “(3) evidence that such school, university, or in-
13 stitution has or can obtain significant industrial co-
14 operation in activities within the scope of this Act;

15 “(4) agreement by the school, university, or in-
16 stitution to maintain the programs for which the
17 funding is sought for the 10-year period beginning
18 on the date the school, university, or institution first
19 receives such funds; and

20 “(5) requiring that such funding shall be for
21 the purposes set forth in subsections (e), (f), and (g)
22 of section 3 and subject to the conditions set forth
23 in section 3(h).

1 **“SEC. 7. DESIGNATION OF FUNDS FOR SCHOLARSHIPS AND**
2 **FELLOWSHIPS.**

3 “(a) The Committee shall recommend to the Sec-
4 retary the designation and utilization of not more than
5 30 percent of the annual outlay of funds under this Act
6 for the purpose of providing scholarships, graduate fellow-
7 ships, and postdoctoral fellowships.

8 “(b) In order to receive a scholarship or a graduate
9 fellowship, an individual student must be a lawful perma-
10 nent resident of the United States or a United States cit-
11 izen and must agree in writing to complete a course of
12 studies and receive a degree in petroleum, mining, or min-
13 eral engineering, petroleum geology, mining and economic
14 geology, petroleum and mining geophysics, or mineral eco-
15 nomics.

16 “(c) The regulations required by section 9 shall re-
17 quire that an individual, in order to retain a scholarship
18 or graduate fellowship, must continue in one of the course
19 of studies listed in subsection (b) of this section, must re-
20 main in good academic standing, as determined by the
21 school, institution, or university and must allow for rein-
22 statement of the scholarship or graduate fellowship by the
23 Secretary, upon the recommendation of the school or insti-
24 tution. Such regulations may also provide for recovery of
25 funds from an individual who fails to complete any of the
26 courses of study listed in subsection (b) of this section

1 after notice that such completion is a requirement of re-
2 ceipt funding under this Act.

3 **“SEC. 8. FUNDING CRITERIA FOR INSTITUTIONS.**

4 “(a) Funds available under this Act shall be paid at
5 such times and in such amounts during each fiscal year
6 as determined by the Secretary, and upon vouchers ap-
7 proved by the Secretary. Each school, university, or insti-
8 tution that receives funds under this Act shall—

9 “(1) establish its plan to provide for the train-
10 ing of individuals as petroleum or mineral engineers
11 and scientists under a curriculum appropriate to the
12 field of mineral resources and mineral engineering
13 and related fields;

14 “(2) establish policies and procedures that as-
15 sure that Federal funds made available under this
16 Act for any fiscal year will supplement and, to the
17 extent practicable, increase the level of funds that
18 would, in the absence of such Federal funds, be
19 made available for purposes of this Act, and in no
20 case supplant such funds; and

21 “(3) have an officer appointed by its governing
22 authority who shall receive and account for all funds
23 paid under this Act and shall make an annual report
24 to the Secretary on or before the first day of Sep-
25 tember of each year, on work accomplished and the

1 status of projects underway, together with a detailed
2 statement of the amounts received under this Act
3 during the preceding fiscal year, and of its disburse-
4 ments on schedules prescribed by the Secretary.

5 “(b) If any of the funds received by the authorized
6 receiving officer of any institute under this Act are found
7 by the Secretary to have been improperly diminished, lost,
8 or misapplied, such funds shall be recovered by the Sec-
9 retary.

10 “(c) Schools, universities, and institutions receiving
11 funds under this Act are authorized and encouraged to
12 plan and conduct programs under this Act in cooperation
13 with each other and with such other agencies, business en-
14 terprises and individuals.

15 **“SEC. 9. DUTIES OF SECRETARY.**

16 “(a) The Secretary, acting through the Assistant Sec-
17 retary for Land and Minerals Management, shall admin-
18 ister this Act and, after full consultation with other inter-
19 ested Federal agencies, shall prescribe such rules and reg-
20 ulations as may be necessary to carry out its provisions
21 not later than 1 year after the enactment of the Ocean
22 State Options Act of 2005.

23 “(b) The Secretary shall furnish such advice and as-
24 sistance as will best promote the purposes of this Act,
25 shall participate in coordinating research initiated under

1 this Act, shall indicate to schools, universities, and institu-
2 tions receiving funds under this Act such lines of inquiry
3 that seem most important, and shall encourage and assist
4 in the establishment and maintenance of cooperation by
5 and between such schools, universities, and institutions
6 and between them and other research organizations, the
7 Department of the Interior, and other Federal agencies.

8 “(c) On or before the first day of July of each year
9 beginning after the date of enactment of this sentence,
10 schools, universities, and institutions receiving funds
11 under this Act shall certify compliance with this Act. An
12 individual granted a scholarship or fellowship with funds
13 provided under this Act, shall through their respective
14 school, university, or institution, advise the Secretary upon
15 completion of the course of studies and the awarding of
16 the degree within 30 days after the award. As needed the
17 Secretary shall ascertain whether the requirements of this
18 Act have been met by schools, universities, and institutions
19 and individuals.

20 **“SEC. 10. COORDINATION.**

21 “(a) Nothing in this Act shall be construed to impair
22 or modify the legal relationship existing between any of
23 the schools, universities, and institutions under whose di-
24 rection an institute is established with funds provided
25 under this Act and the government of the State in which

1 it is located. Nothing in this Act shall in any way be con-
2 strued to authorize Federal control or direction of edu-
3 cation at any school, university, or institution.

4 “(b) The programs authorized by this Act are in-
5 tended to enhance the Nation’s petroleum, mining, and
6 mineral engineering education programs and to enhance
7 educational programs in petroleum and mining exploration
8 and to increase the number of individuals enrolled in and
9 completing these programs. To achieve this intent, the
10 Secretary and the Committee established by section 11
11 shall receive the continuing advice and cooperation of all
12 agencies of the Federal Government concerned with the
13 identification, exploration, and development energy and
14 mineral resources.

15 “(c) Nothing in this Act is intended to give or shall
16 be construed as giving the Secretary any authority over
17 mining and mineral resources research conducted by any
18 agency of the Federal Government, or as repealing or di-
19 minishing existing authorities or responsibilities of any
20 agency of the Federal Government to plan and conduct,
21 contract for, or assist in research in its area of responsi-
22 bility and concern with regard to mining and mineral re-
23 sources.

24 “(d) The schools, universities, and institutions receiv-
25 ing funding under this Act shall generally make publicly

1 available the information and reports on projects com-
2 pleted, in progress, or planned with funds provided under
3 this Act. This information shall be made available on an
4 annual basis. All uses, products, processes, patents, and
5 other developments resulting from any research, dem-
6 onstration, or experiment funded in whole or in part under
7 this Act shall be made available promptly to the general
8 public, subject to exception or limitation, if any, as the
9 Secretary may find necessary in the public interest or na-
10 tional security. Schools, universities, and institutions re-
11 ceiving patents for inventions funded in whole or in part
12 under this Act shall be governed by the applicable Federal
13 law, except that one percent of gross revenues derived
14 from such patents shall be paid by the schools and the
15 institutions to the Federal Energy and Mineral Resources
16 Professional Development Fund established by section
17 6523(a) of the Ocean State Options Act of 2005.

18 **“SEC. 11. COMMITTEE ON PETROLEUM, MINING, AND MIN-**
19 **ERAL ENGINEERING AND ENERGY AND MIN-**
20 **ERAL RESOURCE EDUCATION.**

21 “(a) The Secretary shall appoint a Committee on Pe-
22 troleum, Mining, and Mineral Engineering and Energy
23 and Mineral Resource Education composed of—

24 “(1) the Assistant Secretary of the Interior re-
25 sponsible for land and minerals management, or a

1 delegate of such Assistant Secretary, and not more
2 than 16 other persons who are knowledgeable in the
3 fields of mining and mineral resources research, in-
4 cluding 2 university administrators one of whom
5 shall be from historic and existing petroleum and
6 mining schools; a community, technical, or tribal col-
7 lege administrator; a career technical education edu-
8 cator; 6 representatives equally distributed from the
9 petroleum, mining, and aggregate industries; a work-
10 ing miner; a working oilfield worker; a representative
11 of the Interstate Oil and Gas Compact Commission;
12 a representative from the Interstate Mining Compact
13 Commission; a representative from the Western Gov-
14 ernors Association; a representative of the State ge-
15 ologists, and a representative of a State mining and
16 reclamation agency. In making these 16 appoint-
17 ments, the Secretary shall consult with interested
18 groups.

19 “(2) The Assistant Secretary for Land and
20 Minerals Management, in the capacity of the Chair-
21 man of the Committee, may have present during
22 meetings of the Committee representatives of Fed-
23 eral agencies with responsibility for energy and min-
24 erals resources management, energy and mineral re-
25 source investigations, energy and mineral commodity

1 information, international trade in energy and min-
2 eral commodities, mining regulation and mine safety
3 research, and research into the development, produc-
4 tion, and utilization of energy and mineral commod-
5 ities.

6 “(b) The Committee shall consult with, and make rec-
7 ommendations to, the Secretary on all matters relating to
8 funding energy and mineral resources research and the
9 awarding and allocation of funding made under this Act.
10 The Secretary shall consult with, and consider rec-
11 ommendations of, such Committee in such matters.

12 “(c) Committee members, other than officers or em-
13 ployees of Federal, State, or local governments, shall be,
14 for each day (including traveltime) during which they are
15 performing Committee business, paid at a rate fixed by
16 the Secretary but not in excess of the daily equivalent of
17 the maximum rate of pay for level IV of the Executive
18 Schedule under section 5136 of title 5, United States
19 Code, and shall be fully reimbursed for travel, subsistence,
20 and related expenses.

21 “(d) The Committee shall be chaired by the Assistant
22 Secretary of the Interior responsible for land and minerals
23 management. There shall also be elected a Vice Chairman
24 by the Committee from among the members referred to
25 in this section. The Vice Chairman shall perform such du-

1 ties as are determined to be appropriate by the committee,
2 except that the Chairman of the Committee must person-
3 ally preside at all meetings of the full Committee.

4 “(e) Following completion of the report required by
5 section 385 of the Energy Policy Act of 2005, the Com-
6 mittee shall consider the recommendations of the report,
7 ongoing efforts in the schools, universities, and institu-
8 tions receiving funding under this Act, the Federal and
9 State Governments, and the private sector, and shall for-
10 mulate and recommend to the Secretary a national plan
11 for a program utilizing the fiscal resources provided under
12 this Act. The Committee shall submit such plan to the
13 Secretary for approval. Upon approval, the plan shall
14 guide the Secretary and the Committee in their actions
15 under this Act.

16 “(f) Section 10 of the Federal Advisory Committee
17 Act (5 U.S.C. App.) shall not apply to the Committee.

18 **“SEC. 12. CAREER TECHNICAL EDUCATION.**

19 “(a) Up to 15 percent of the annual outlay of funds
20 under this Act may be granted to schools or institutions
21 including, but not limited to, colleges, universities, commu-
22 nity colleges, tribal colleges, and technical institutes other
23 than those described in sections 3, 4, 5, and 6.

24 “(b) The Secretary, as advised by the Committee es-
25 tablished under section 11, shall determine the eligibility

1 of a school or institution to receive funding under this sec-
2 tion using criteria that include—

3 “(1) the presence of a substantial program of
4 training, including vocational education for individ-
5 uals seeking to enter the oil and gas, coal mining,
6 or mineral mining industries in a skilled technical
7 trade offered by the schools or institutions referred
8 to in subsection (a); or

9 “(2) the presence of a State-approved program
10 of career technical education at a secondary school,
11 offered cooperatively with a schools or institutions
12 referred to in subsection (a) in one of the industrial
13 sectors of—

14 “(A) agriculture, forestry, or fisheries;

15 “(B) utilities;

16 “(C) construction;

17 “(D) manufacturing; and

18 “(E) transportation and warehousing.

19 “(c) Schools or institutions receiving funds under this
20 section must show evidence of an institutional commit-
21 ment for the purposes career technical education and pro-
22 vide evidence that the school or institution can obtain in-
23 dustrial cooperation in activities within the scope of this
24 Act.

1 “(d) Schools or institutions receiving funds under
2 this section must agree to maintain the programs for
3 which the funding is sought for a period of 10 years begin-
4 ning on the date the school or institution receives such
5 funds, unless the Secretary finds that a shorter period of
6 time is appropriate for the local labor market or is re-
7 quired by State authorities.”.

8 **SEC. 6524. ONSHORE AND OFFSHORE MINERAL LEASE**
9 **FEES.**

10 Notwithstanding any other provision of law, the De-
11 partment of the Interior is prohibited from charging fees
12 applicable to actions on Federal onshore and offshore oil
13 and gas, coal, geothermal, and other mineral leases, in-
14 cluding transportation of any production from such leases,
15 if such fees were not in existence on January 1, 2005.
16 Fees in existence on that date may be increased by the
17 amount of the increase in the Consumer Price Index since
18 the last date that the fees were set, but such an increase
19 shall only apply to a lease issued after the date of the
20 increase.

21 **SEC. 6525. ATLANTIC AND PACIFIC OCS REGION HEAD-**
22 **QUARTERS.**

23 Not later than January 1, 2008, the Secretary of the
24 Interior shall establish the headquarters for the Atlantic
25 OCS Region and the headquarters for the Pacific OCS

1 Region within a State bordering the Atlantic OCS Region
2 and a State bordering the Pacific OCS Region, respec-
3 tively, from among the States bordering those Regions,
4 that petitions by no later than July 1, 2007, for leasing
5 covering at least 40 percent of the area of its Adjacent
6 Zone within 100 miles of the coastline. Such headquarters
7 shall be located within 25 miles of the coastline and shall
8 be the permanent duty station for all Minerals Manage-
9 ment Service personnel that on a daily basis spend on av-
10 erage 60 percent or more of their time in performance of
11 duties in support of the activities of the respective Region,
12 except that the Minerals Management Service may house
13 regional inspection staff in other locations. The Atlantic
14 OCS Region and the Pacific OCS Region shall each be
15 led by a Regional Director who shall be an employee with-
16 in the Senior Executive Service.

17 **SEC. 6526. NATIONAL GEOLOGIC DATA AND MAPPING FUND**
18 **ACT OF 2005.**

19 (a) **SHORT TITLE.**—This section may be cited as the
20 “National Geologic Data and Mapping Fund Act of
21 2005”.

22 (b) **PURPOSES.**—The purpose of this section is to—
23 (1) establish a fund to provide funding for geo-
24 logic mapping and the preservation and use of geo-
25 logic data;

1 (2) make available receipts derived from sales,
2 bonus bids, and royalties from onshore and offshore
3 gas, minerals, oil, and any additional form of energy
4 exploration and development under the laws of the
5 United States for the purposes of the such fund;

6 (3) distribute funds from such fund each fiscal
7 year to the Secretary of the Interior and the States;
8 and

9 (4) use the distributed funds to secure the nec-
10 essary trained workforce, contractual services, and
11 other support, including maintenance and capital in-
12 vestments, to conduct geologic mapping and preserve
13 and make geologic data available for use.

14 (c) DEFINITIONS.—In this section:

15 (1) GEOLOGIC FUND.—The term “Geologic
16 Fund” means the National Geologic Data and Map-
17 ping Fund established by subsection (d).

18 (2) STATE.—The term “State” means the State
19 geological survey, the agency that acts as the State
20 geological survey, or any other State government
21 agency primarily responsible for geologic mapping or
22 geologic data preservation (or both) within a State.

23 (d) ESTABLISHMENT AND USE OF NATIONAL GEO-
24 LOGIC DATA AND MAPPING FUND.—

1 (1) GEOLOGIC FUND.—There is established in
2 the Treasury a separate account to be known as the
3 “National Geologic Data and Mapping Fund”.

4 (2) FUNDING.—The Secretary of the Treasury
5 shall deposit in the Enhancement Fund—

6 (A) such sums as are provided by sections
7 9(b)(4)(A)(iv), 9(b)(4)(B)(iv), 9(c)(4)(A)(iv),
8 and 9(c)(4)(B)(iv) of the Outer Continental
9 Shelf Lands Act, as amended by this Act;

10 (B)(i) during the period of October 1,
11 2006, through September 30, 2015, 0.1 percent
12 of all sums paid into the Treasury under sec-
13 tion 35 of the Mineral Leasing Act (30 U.S.C.
14 191), and

15 (ii) beginning October 1, 2015, and there-
16 after, 0.5 percent of all sums paid into the
17 Treasury under section 35 of the Mineral Leas-
18 ing Act (30 U.S.C. 191); and

19 (C)(i) during the period of October 1,
20 2006, through September 30, 2015, 0.1 percent
21 of all sums paid into the Treasury from receipts
22 derived from bonus bids and royalties from
23 other mineral leasing on public lands, and

24 (ii) beginning October 1, 2015, and there-
25 after, 0.5 percent of all sums paid into the

1 Treasury from receipts derived from bonus bids
2 and royalties from other mineral leasing on
3 public lands.

4 (3) INVESTMENTS.—The Secretary of the
5 Treasury shall invest the amounts deposited under
6 paragraph (2) and all accrued interest on the
7 amounts deposited under paragraph (2) only in in-
8 terest bearing obligations of the United States or in
9 obligations guaranteed as to both principal and in-
10 terest by the United States.

11 (4) AVAILABILITY TO SECRETARY OF THE IN-
12 TERIOR.—

13 (A) IN GENERAL.—Beginning with fiscal
14 year 2007, and in each fiscal year thereafter,
15 one-third of amounts deposited into the Geo-
16 logic Fund, together with the interest thereon,
17 shall be available, without fiscal year limita-
18 tions, to the Secretary of the Interior for use
19 for the purposes described in subsection (b)(4).

20 (B) WITHDRAWALS AND TRANSFER OF
21 FUNDS.—The Secretary of the Treasury shall
22 withdraw such amounts from the Geologic Fund
23 as the Secretary of the Interior may request,
24 subject to the limitation in subparagraph (A),
25 and transfer such amounts to the Secretary of

1 the Interior to be used, at the discretion of the
2 Secretary of the Interior, by the Minerals Man-
3 agement Service, the Bureau of Land Manage-
4 ment, and the United States Geological Survey
5 for the purposes described in subsection (b)(4).
6 No funds distributed from the Geologic Fund
7 may be used to purchase an interest in land.

8 (5) PAYMENT TO STATES.—

9 (A) IN GENERAL.—Beginning with fiscal
10 year 2007, and in each fiscal year thereafter,
11 two-thirds of amounts deposited into the Geo-
12 logic Fund, together with the interest thereon,
13 shall be available, without fiscal year limita-
14 tions, to the States for use for the purposes de-
15 scribed in subsection (b)(4).

16 (B) WITHDRAWALS AND TRANSFER OF
17 FUNDS.—Within the first 90 days of each fiscal
18 year, the Secretary of the Treasury shall with-
19 draw amounts from the Geologic Fund and
20 transfer such amounts to the States based on
21 a formula devised by the Secretary of the Inte-
22 rior based on the relative geologic mapping and
23 data preservation needs of the States.

24 (C) USE OF PAYMENTS BY STATES.—Each
25 State shall use the payments made under sub-

1 paragraph (B) only for carrying out projects
2 and programs for the purposes described in
3 subsection (b)(4). No funds distributed from
4 the Geologic Fund may be used to purchase an
5 interest in land.

6 (D) ENCOURAGEMENT OF USE OF PRIVATE
7 FUNDS BY STATES.—Each State shall use the
8 payments made under subparagraph (B) to le-
9 verage private funds for carrying out projects
10 for the purposes described in subsection (b)(4).

11 (e) REPORT TO CONGRESS.—Beginning in fiscal year
12 2008 and continuing for each fiscal year thereafter, the
13 Secretary of the Interior and each State receiving funds
14 from the Geologic Fund shall submit a report to the Com-
15 mittee on Energy and Natural Resources of the Senate
16 and the Committee on Resources of the House of Rep-
17 resentatives. Reports submitted to the Congress by the
18 Secretary of the Interior and the States shall include de-
19 tailed information regarding expenditures during the pre-
20 vious fiscal year.

21 **SEC. 6527. LEASES FOR AREAS LOCATED WITHIN 100 MILES**
22 **OF CALIFORNIA OR FLORIDA.**

23 (a) AUTHORIZATION TO CANCEL AND EXCHANGE
24 CERTAIN EXISTING OIL AND GAS LEASES; PROHIBITION

1 ON SUBMITTAL OF EXPLORATION PLANS FOR CERTAIN
2 LEASES PRIOR TO JUNE 30, 2012.—

3 (1) AUTHORITY.—Effective 180 days after the
4 date of enactment of this subtitle, the lessee of an
5 existing oil and gas lease for an area located com-
6 pletely within 100 miles of the coastline within the
7 California or Florida Adjacent Zones shall have the
8 option, without compensation, of exchanging such
9 lease for a new oil and gas lease having a primary
10 term of 5 years. For the area subject to the new
11 lease, the lessee may select any unleased tract at
12 least part of which is located within the area be-
13 tween 100 and 125 miles from the coastline, and
14 completely beyond 100 miles from the coastline,
15 within the same Adjacent State's Adjacent Zone as
16 the lease being exchanged.

17 (2) ADMINISTRATIVE PROCESS.—The Secretary
18 of the Interior shall establish a reasonable adminis-
19 trative process through which a lessee may exercise
20 its option to exchange an oil and gas lease for a new
21 oil and gas lease as provided for in this section.
22 Such exchanges, including the issuance of new
23 leases, shall not be considered to be major Federal
24 actions for purposes of the National Environmental
25 Policy Act of 1969 (42 U.S.C. 4321 et seq.). Fur-

1 ther, such exchanges conducted in accordance with
2 this section are deemed to be in compliance all provi-
3 sions of the Outer Continental Shelf Lands Act (43
4 U.S.C. 1331 et seq.). The Secretary shall issue a
5 new lease in exchange for the lease being exchanged
6 notwithstanding that the area that will be subject to
7 the lease may be withdrawn from leasing under the
8 Outer Continental Shelf Lands Act or otherwise un-
9 available for leasing under the provisions of any
10 other law.

11 (3) OPERATING RESTRICTIONS.—A new lease
12 issued in exchange for an existing lease under this
13 section shall be subject to such national defense op-
14 erating restrictions on the OCS tract covered by the
15 new lease as may be applicable upon issuance.

16 (4) PRIORITY.—The Secretary shall give pri-
17 ority in the lease exchange process based on the
18 amount of the original bonus bid paid for the
19 issuance of each lease to be exchanged. The Sec-
20 retary shall allow leases covering partial tracts to be
21 exchanged for leases covering full tracts conditioned
22 upon payment of additional bonus bids on a per-acre
23 basis as determined by the average per acre of the
24 original bonus bid per acre for the partial tract
25 being exchanged.

1 (5) EXPLORATION PLANS.—Any exploration
2 plan submitted to the Secretary of the Interior after
3 the date of the enactment of this Act and before
4 July 1, 2012, for an oil and gas lease for an area
5 wholly within 100 miles of the coastline within the
6 California Adjacent Zone or Florida Adjacent Zone
7 shall not be treated as received by the Secretary
8 until the earlier of July 1, 2012, or the date on
9 which a petition by the Adjacent State for oil and
10 gas leasing covering the area within which is located
11 the area subject to the oil and gas lease was ap-
12 proved.

13 (b) FURTHER LEASE CANCELLATION AND EX-
14 CHANGE PROVISIONS.—

15 (1) CANCELLATION OF LEASE.—As part of the
16 lease exchange process under this section, the Sec-
17 retary shall cancel a lease that is exchanged under
18 this section.

19 (2) CONSENT OF LESSEES.—All lessees holding
20 an interest in a lease must consent to cancellation
21 of their leasehold interests in order for the lease to
22 be cancelled and exchanged under this section.

23 (3) WAIVER OF RIGHTS.—As a prerequisite to
24 the exchange of a lease under this section, the lessee

1 must waive any rights to bring any litigation against
2 the United States related to the transaction.

3 (4) PLUGGING AND ABANDONMENT.—The plug-
4 ging and abandonment requirements for any wells
5 located on any lease to be cancelled and exchanged
6 under this section must be complied with by the les-
7 sees prior to the cancellation and exchange.

8 (c) AREA PARTIALLY WITHIN 100 MILES OF FLOR-
9 IDA.—An existing oil and gas lease for an area located
10 partially within 100 miles of the coastline within the Flor-
11 ida Adjacent Zone may only be developed and produced
12 using wells drilled from well-head locations at least 100
13 miles from the coastline to any bottom-hole location on
14 the area of the lease.

15 (d) EXISTING OIL AND GAS LEASE DEFINED.—In
16 this section the term “existing oil and gas lease” means
17 an oil and gas lease in effect on the date of the enactment
18 of this Act.

19 **Subtitle F—Sale and Conveyance of** 20 **Federal Land**

21 **SEC. 6601. COLLECTION OF RECEIPTS FROM THE SALE OF** 22 **FEDERAL LANDS.**

23 (a) IN GENERAL.—Notwithstanding any other law,
24 the Secretary shall make the lands described in subsection
25 (b) available for immediate sale through a competitive sale

1 process at fair market value. Requirements under the Na-
2 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
3 et seq.) shall not apply to the sale of lands under this
4 section.

5 (b) LANDS DESCRIBED.—The lands referred to in
6 subsection (a) are the following:

7 (1) Poplar Point (Transfer and Conveyance of
8 Properties in the District of Columbia, Map Number
9 869/80460, Dated July 2005, p. 28 of 28).

10 (2) U.S. Reservations 44, 45, 46, 47, 48 and
11 49 (Map Number 869/80460, Dated July 2005, p.
12 13 of 28).

13 (3) U.S. Reservation 251 (Map Number 869/
14 80460, Dated July 2005, p. 14 of 28).

15 (4) U.S. Reservation 8 (Map Number 869/
16 80460, Dated July 2005, p. 15 of 28).

17 (5) U.S. Reservation 17A (Map Number 869/
18 80460, Dated July 2005, p. 20 of 28).

19 (6) U.S. Reservation 484 (Map Number 869/
20 80460, Dated July 2005, p. 21 of 28).

21 (7) U.S. Reservation 721, 722 and 723 (Map
22 Number 869/80460, Dated July 2005, p. 25 of 28).

23 (8) Certain land adjacent to Robert F. Kennedy
24 Stadium Parking Lot (Transfer and Conveyance of

1 Properties in the District of Columbia, Map Number
2 869/80460, Dated July 2005, p. 26 of 28).

3 (9) United States Reservation 243, 244, 245,
4 and 247 (Transfer and Conveyance of Properties in
5 the District of Columbia, Map Number 869/80460,
6 Dated July 2005, p. 22 of 28).

7 The Secretary may retain from sale proceeds and spend
8 without further appropriation up to \$1,000,000 each year
9 to implement land sales under this subsection, including
10 hiring contractors and appraisers

11 (c) POPLAR POINT.—

12 (1) RETENTION OF FUNDS.—The Secretary
13 may retain \$10,000,000 from funds received from
14 the sale of land under subsection (b)(1) and spend
15 such funds without further appropriations for the
16 purposes of complying with subparagraph (2).

17 (2) CONTINUITY OF OPERATION.—Before the
18 sale and development of land referred to in subpara-
19 graph (b)(1), the Secretary shall ensure that the ex-
20 isting facilities and related properties (including nec-
21 essary easements and utilities related thereto) occu-
22 pied or otherwise used by the National Park Service
23 are either withheld from any sale and remain in op-
24 eration at its current location or will be relocated to
25 suitable replacement facilities along the Anacostia

1 River in the District of Columbia using funds made
2 available by subparagraph (c)(1).

3 (d) CONVEYANCE OF LANDS TO THE DISTRICT OF
4 COLUMBIA.—

5 (1) IN GENERAL.—Notwithstanding any other
6 law, the Secretary shall immediately convey all right,
7 title, and interest of the United States in the lands
8 described in this subsection to the District of Colum-
9 bia upon enactment of this section. Requirements
10 under the National Environmental Policy Act (42
11 U.S.C. 4321 et seq.) shall not apply to the convey-
12 ance of lands under this subsection.

13 (2) LANDS DESCRIBED.—The lands referred to
14 in this subsection are as follows:

15 (A) United States Reservation 128, 129,
16 130, 298 and 299 (Transfer and Conveyance of
17 Properties in the District of Columbia, Map
18 Number 869/80460, Dated July 2005, p. 23 of
19 28).

20 (B) United States Reservation 174 (Map
21 Number 869/80460, Dated July 2005, p. 27 of
22 28).

23 (C) United States Reservation 277A and
24 277C (Map Number 869/80460, Dated July
25 2005, p. 16 of 28).

1 (D) United States Reservation 343D and
2 343E (Map Number 869/80460, Dated July
3 2005, p. 24 or 28).

4 (E) United States Reservation 404 (Map
5 Number 869/80460, Dated July 2005, p. 12 of
6 28).

7 (F) United States Reservation 451 (Map
8 Number 869/80460, Dated July 2005, p. 11 of
9 28).

10 (G) United States Reservation 470 (Trans-
11 fer and Conveyance of Properties in the District
12 of Columbia, Map Number 869/80460, Dated
13 July 2005, p. 17 of 28).

14 (e) TRANSFER OF ADMINISTRATIVE JURISDICTION
15 OVER CERTAIN PROPERTIES.—

16 (1) IN GENERAL.—Upon the date of the enact-
17 ment of this subsection, administrative jurisdiction
18 over each of the following properties (owned by the
19 United States and as depicted on listed maps) is
20 hereby transferred from the District of Columbia to
21 the United States for administration by the Sec-
22 retary of the Interior through the Director of the
23 National Park Service:

24 (A) An unimproved portion of Audubon
25 Terrace Northwest, located east of Linnean Av-

1 enue Northwest, that is within U.S. Reservation
2 402 (Audubon Terrace, NW, Transfer and Con-
3 veyance of Properties in the District of Colum-
4 bia, Map Number 869/80460, Dated July 2005,
5 p. 2 of 28) .

6 (B) An unimproved portion of Barnaby
7 Street Northwest, north of Aberfoyle Place
8 Northwest, that abuts U.S. Reservation 545
9 (Barnaby Avenue, NW, Map Number 869/
10 80460, Dated July 2005, p. 3 of 28).

11 (C) A portion of Canal Street Southwest,
12 and a portion of V Street Southwest, each
13 which abuts U.S. Reservation (Canal and V
14 Streets, SW, Map Number 869/80460, Dated
15 July 2005, p. 3 of 28).

16 (D) Unimproved streets and alleys at Fort
17 Circle Park located within the boundaries of
18 U.S. Reservation 497 (Fort Circle Park, Map
19 Number 869/80460, Dated July 2005, p. 5 of
20 28)''.

21 (E) An unimproved portion of Western Av-
22 enue Northwest, north of Oregon Avenue
23 Northwest, that abuts U.S. Reservation 339
24 (Western Avenue, NW, Map Number 869/
25 80460, Dated July 2005, p. 6 of 28).

1 (F) An unimproved portion of 17th Street
2 Northwest, south of Shepard Street Northwest,
3 that abuts U.S. Reservation 339 (17th Street,
4 NW, Map Number 869/80460, Dated July
5 2005, p. 7 of 28).

6 (G) An unimproved portion of 30th Street
7 Northwest, north of Broad Branch Road,
8 Northwest, that is within the boundaries of
9 U.S. Reservation 515 (30th Street, NW, Map
10 Number 869/80460, Dated July 2005, p. 8 of
11 28).

12 (H) Land over I-395 at Washington Ave-
13 nue, Southwest (Lands over I-395 at Wash-
14 ington Avenue, SW, Map Number 869/80460,
15 Dated July 2005, p. 9 of 28).

16 (I) A portion of U.S. Reservation 357 at
17 Whitehaven Parkway Northwest, previously
18 transferred to the District of Columbia in con-
19 junction with the former proposal for a resi-
20 dence for the Mayor of the District of Columbia
21 (Portion of U.S. Reservation 357, Transfer and
22 Conveyance of Properties in the District of Co-
23 lumbia, Map Number 869/80460, Dated July
24 2005, p. 10 of 28).

1 (2) USE OF CERTAIN PROPERTY FOR MEMO-
 2 RIAL.—In the case of the property for which admin-
 3 istrative jurisdiction is transferred under paragraph
 4 (1)(H), the property shall be used as the site for the
 5 establishment of a memorial to honor disabled vet-
 6 erans of the United States Armed Forces authorized
 7 to be established by the Disabled Veterans’ LIFE
 8 Memorial Foundation by Public Law 106–348 (114
 9 Stat. 1358; 40 U.S.C. 8903 note), except that the
 10 District of Columbia shall retain administrative ju-
 11 risdiction over the subsurface area beneath the site
 12 for tunnels, walls, footings, and related facilities.

13 **TITLE VII—COMMITTEE ON**
 14 **TRANSPORTATION AND IN-**
 15 **FRASTRUCTURE**

16 **SEC. 7001. EXTENSION OF VESSEL TONNAGE DUTIES.**

17 (a) EXTENSION OF DUTIES.—Section 36 of the Act
 18 entitled “An Act to provide revenue, equalize duties and
 19 encourage the industries of the United States, and for
 20 other purposes”, approved August 5, 1909 (36 Stat. 111;
 21 46 U.S.C. App. 121), is amended—

22 (1) by striking “9 cents per ton” and all that
 23 follows through “2002,” the first place it appears
 24 and inserting “4.5 cents per ton, not to exceed in

1 the aggregate 22.5 cents per ton in any one year, for
2 fiscal years 2006 through 2010,”; and

3 (2) by striking “27 cents per ton” and all that
4 follows through “2002,” and inserting “13.5 cents
5 per ton, not to exceed 67.5 cents per ton per annum,
6 for fiscal years 2006 through 2010,”.

7 (b) CONFORMING AMENDMENT.—The Act entitled
8 “An Act concerning tonnage duties on vessels entering
9 otherwise than by sea”, approved March 8, 1910 (36 Stat.
10 234; 46 U.S.C. App. 132), is amended by striking “9 cents
11 per ton” and all that follows through “and 2 cents” and
12 inserting “4.5 cents per ton, not to exceed in the aggre-
13 gate 22.5 cents per ton in any one year, for fiscal years
14 2006 through 2010, and 2 cents”.

15 (c) OFFSETTING RECEIPTS.—Increased tonnage
16 charges collected as a result of the amendments made by
17 subsection (a) shall be deposited in the general fund of
18 the Treasury as offsetting receipts of the department in
19 which the Coast Guard is operating and ascribed to Coast
20 Guard activities related to marine safety, search and res-
21 cue, and aids to navigation.

4 This title may be cited as the “Work, Marriage, and
5 Family Promotion Reconciliation Act of 2005”.

Sec. 8001. Short title.
Sec. 8002. Table of contents.
Sec. 8003. References.
Sec. 8004. Findings.

- Sec. 8101. Purposes.
- Sec. 8102. Family assistance grants.
- Sec. 8103. Promotion of family formation and healthy marriage.
- Sec. 8104. Supplemental grant for population increases in certain States.
- Sec. 8105. Elimination of high performance bonus.
- Sec. 8106. Contingency fund.
- Sec. 8107. Use of funds.
- Sec. 8108. Repeal of Federal loan for State welfare programs.
- Sec. 8109. Universal engagement and family self-sufficiency plan requirements.
- Sec. 8110. Work participation requirements.
- Sec. 8111. Maintenance of effort.
- Sec. 8112. Performance improvement.
- Sec. 8113. Data collection and reporting.
- Sec. 8114. Direct funding and administration by Indian tribes.
- Sec. 8115. Research, evaluations, and national studies.
- Sec. 8116. Study by the Census Bureau.
- Sec. 8117. Definition of assistance.
- Sec. 8118. Technical corrections.
- Sec. 8119. Fatherhood program.
- Sec. 8120. State option to make TANF programs mandatory partners with one-stop employment training centers.
- Sec. 8121. Sense of the Congress.
- Sec. 8122. Drug testing of applicants for and recipients of assistance.

Sec. 8201. Entitlement funding.

Sec. 8301. Federal matching funds for limited pass through of child support payments to families receiving TANF.

Sec. 8302. State option to pass through all child support payments to families that formerly received TANF.

- Sec. 8303. Mandatory review and adjustment of child support orders for families receiving TANF.
- Sec. 8304. Mandatory fee for successful child support collection for family that has never received TANF.
- Sec. 8305. Report on undistributed child support payments.
- Sec. 8306. Decrease in amount of child support arrearage triggering passport denial.
- Sec. 8307. Use of tax refund intercept program to collect past-due child support on behalf of children who are not minors.
- Sec. 8308. Garnishment of compensation paid to veterans for service-connected disabilities in order to enforce child support obligations.
- Sec. 8309. Maintenance of technical assistance funding.
- Sec. 8310. Maintenance of Federal Parent Locator Service funding.
- Sec. 8311. Information comparisons with insurance data.
- Sec. 8312. Tribal access to the Federal Parent Locator Service.
- Sec. 8313. Reimbursement of Secretary's costs of information comparisons and disclosure for enforcement of obligations on Higher Education Act loans and grants.
- Sec. 8314. Technical amendment relating to cooperative agreements between States and Indian tribes.
- Sec. 8315. State option to use statewide automated data processing and information retrieval system for interstate cases.
- Sec. 8316. Modification of rule requiring assignment of support rights as a condition of receiving TANF.
- Sec. 8317. State option to discontinue certain support assignments.
- Sec. 8318. Technical correction.
- Sec. 8319. Reduction in rate of reimbursement of child support administrative expenses.
- Sec. 8320. Incentive payments.

Subtitle D—Child welfare

- Sec. 8401. Extension of authority to approve demonstration projects.
- Sec. 8402. Elimination of limitation on number of waivers.
- Sec. 8403. Elimination of limitation on number of States that may be granted waivers to conduct demonstration projects on same topic.
- Sec. 8404. Elimination of limitation on number of waivers that may be granted to a single State for demonstration projects.
- Sec. 8405. Streamlined process for consideration of amendments to and extensions of demonstration projects requiring waivers.
- Sec. 8406. Availability of reports.
- Sec. 8407. Clarification of eligibility for foster care maintenance payments and adoption assistance.
- Sec. 8408. Clarification regarding Federal matching of certain administrative costs under the foster care maintenance payments program.
- Sec. 8409. Technical correction.
- Sec. 8410. Technical correction.

Subtitle E—Supplemental security income

- Sec. 8501. Review of State agency blindness and disability determinations.
- Sec. 8502. Payment of certain lump sum benefits in installments under the Supplemental Security Income program.

Subtitle F—State and local flexibility

Sec. 8601. Program coordination demonstration projects.

Subtitle G—Repeal of continued dumping and subsidy offset

Sec. 8701. Repeal of continued dumping and subsidy offset.

Subtitle H—Effective date

Sec. 8801. Effective date.

1 **SEC. 8003. REFERENCES.**

2 Except as otherwise expressly provided, wherever in
3 this title an amendment or repeal is expressed in terms
4 of an amendment to, or repeal of, a section or other provi-
5 sion, the amendment or repeal shall be considered to be
6 made to a section or other provision of the Social Security
7 Act.

8 **SEC. 8004. FINDINGS.**

9 The Congress makes the following findings:

10 (1) The Temporary Assistance for Needy Fami-
11 lies (TANF) Program established by the Personal
12 Responsibility and Work Opportunity Reconciliation
13 Act of 1996 (Public Law 104–193) has succeeded in
14 moving families from welfare to work and reducing
15 child poverty.

16 (A) There has been a dramatic increase in
17 the employment of current and former welfare
18 recipients. The percentage of working recipients
19 reached an all-time high in fiscal year 1999 and
20 continued steady in fiscal years 2000 and 2001.

21 In fiscal year 2003, 31.3 percent of adult re-

1 recipients were counted as meeting the work par-
2 ticipation requirements. All States but one met
3 the overall participation rate standard in fiscal
4 year 2003, as did the District of Columbia and
5 Puerto Rico.

6 (B) Earnings for welfare recipients re-
7 maining on the rolls have also increased signifi-
8 cantly, as have earnings for female-headed
9 households. The increases have been particu-
10 larly large for the bottom 2 income quintiles,
11 that is, those women who are most likely to be
12 former or present welfare recipients.

13 (C) Welfare dependency has plummeted.
14 As of June 2004, 1,969,909 families and
15 4,727,291 individuals were receiving assistance.
16 Accordingly, the number of families in the wel-
17 fare caseload and the number of individuals re-
18 ceiving cash assistance declined 55 percent and
19 61 percent, respectively, since the enactment of
20 TANF.

21 (D) The child poverty rate continued to de-
22 cline between 1996 and 2003, falling 14 percent
23 from 20.5 to 17.6 percent. Child poverty rates
24 for African-American and Hispanic children

1 have also fallen dramatically during the past 7
2 years.

3 (2) As a Nation, we have made substantial
4 progress in reducing teen pregnancies and births,
5 slowing increases in nonmarital childbearing, and
6 improving child support collections and paternity es-
7 tablishment.

8 (A) The birth rate to teenagers declined 30
9 percent from its high in 1991 to 2002. The
10 2002 teenage birth rate of 43.0 per 1,000
11 women aged 15–19 is the lowest recorded birth
12 rate for teenagers.

13 (B) During the period from 1991 through
14 2001, teenage birth rates fell in all States and
15 the District of Columbia, Puerto Rico, Guam,
16 and the Virgin Islands. Declines also have
17 spanned age, racial, and ethnic groups. There
18 has been success in lowering the birth rate for
19 both younger and older teens. The birth rate
20 for those 15–17 years of age has declined 40
21 percent since 1991, and the rate for those 18
22 and 19 has declined 23 percent. The rate for
23 African American teens—until recently the
24 highest—has declined the most—42 percent
25 from 1991 through 2002.

1 (C) Since the enactment of the Personal
2 Responsibility and Work Opportunity Reconcili-
3 ation Act of 1996, child support collections
4 within the child support enforcement system
5 have grown every year, increasing from
6 \$12,000,000,000 in fiscal year 1996 to over
7 \$21,000,000,000 in fiscal year 2003. The num-
8 ber of paternities established or acknowledged
9 in fiscal year 2003 (over 1,500,000) includes a
10 more than 100 percent increase through in-hos-
11 pital acknowledgement programs—862,043 in
12 2003 compared to 324,652 in 1996. Child sup-
13 port collections were made in nearly 8,000,000
14 cases in fiscal year 2003, significantly more
15 than the almost 4,000,000 cases having a col-
16 lection in 1996.

17 (3) The Personal Responsibility and Work Op-
18 portunity Reconciliation Act of 1996 gave States
19 great flexibility in the use of Federal funds to de-
20 velop innovative programs to help families leave wel-
21 fare and begin employment and to encourage the
22 formation of 2-parent families.

23 (A) Total Federal and State TANF ex-
24 penditures in fiscal year 2003 were
25 \$26,300,000,000, up from \$25,400,000,000 in

1 fiscal year 2002 and \$22,600,000,000 in fiscal
2 year 1999. This increased spending is attrib-
3 utable to significant new investments in sup-
4 portive services in the TANF program, such as
5 child care and activities to support work.

6 (B) Since the welfare reform effort began
7 there has been a dramatic increase in work par-
8 ticipation (including employment, community
9 service, and work experience) among welfare re-
10 cipients, as well as an unprecedented reduction
11 in the caseload because recipients have left wel-
12 fare for work.

13 (C) States are making policy choices and
14 investment decisions best suited to the needs of
15 their citizens.

16 (i) To expand aid to working families,
17 almost all States disregard a portion of a
18 family's earned income when determining
19 benefit levels.

20 (ii) Most States increased the limits
21 on countable assets above the former Aid
22 to Families with Dependent Children
23 (AFDC) program. Every State has in-
24 creased the vehicle asset level above the

1 prior AFDC limit for a family's primary
2 automobile.

3 (iii) States are experimenting with
4 programs to promote marriage and pater-
5 nal involvement. Over half of the States
6 have eliminated restrictions on 2-parent
7 families. Many States use TANF, child
8 support, or State funds to support commu-
9 nity-based activities to help fathers become
10 more involved in their children's lives or
11 strengthen relationships between mothers
12 and fathers.

13 (4) However, despite this success, there is still
14 progress to be made. Policies that support and pro-
15 mote more work, strengthen families, and enhance
16 State flexibility are necessary to continue to build on
17 the success of welfare reform.

18 (A) Significant numbers of welfare recipi-
19 ents still are not engaged in employment-related
20 activities. While all States have met the overall
21 work participation rates required by law, in an
22 average month, only 41 percent of all families
23 with an adult participated in work activities
24 that were countable toward the State's partici-
25 pation rate. In fiscal year 2003, four jurisdic-

1 tions failed to meet the more rigorous 2-parent
2 work requirements, and 25 jurisdictions (States
3 and territories) are not subject to the 2-parent
4 requirements, most because they moved their 2-
5 parent cases to separate State programs where
6 they are not subject to a penalty for failing the
7 2-parent rates.

8 (B) In 2002, 34 percent of all births in the
9 U.S. were to unmarried women. And, with
10 fewer teens entering marriage, the proportion of
11 births to unmarried teens has increased dra-
12 matically (80 percent in 2002 versus 30 percent
13 in 1970). The negative consequences of out-of-
14 wedlock birth on the mother, the child, the fam-
15 ily, and society are well documented. These in-
16 clude increased likelihood of welfare depend-
17 ency, increased risks of low birth weight, poor
18 cognitive development, child abuse and neglect,
19 and teen parenthood, and decreased likelihood
20 of having an intact marriage during adulthood.

21 (C) There has been a dramatic rise in co-
22 habitation as marriages have declined. It is esti-
23 mated that 40 percent of children are expected
24 to live in a cohabiting-parent family at some
25 point during their childhood. Children in single-

1 parent households and cohabiting-parent house-
2 holds are at much higher risk of child abuse
3 than children in intact married families.

4 (D) Children who live apart from their bio-
5 logical fathers, on average, are more likely to be
6 poor, experience educational, health, emotional,
7 and psychological problems, be victims of child
8 abuse, engage in criminal behavior, and become
9 involved with the juvenile justice system than
10 their peers who live with their married, biologi-
11 cal mother and father. A child living with a sin-
12 gle mother is nearly 5 times as likely to be poor
13 as a child living in a married-couple family. In
14 2003, in married-couple families, the child pov-
15 erty rate was 8.6 percent, and in households
16 headed by a single mother the poverty rate was
17 41.7 percent.

18 (5) Therefore, it is the sense of the Congress
19 that increasing success in moving families from wel-
20 fare to work, as well as in promoting healthy mar-
21 riage and other means of improving child well-being,
22 are very important Government interests and the
23 policy contained in part A of title IV of the Social
24 Security Act (as amended by this title) is intended
25 to serve those ends.

Subtitle A—TANF

2 SEC. 8101. PURPOSES.

3 Section 401(a) (42 U.S.C. 601(a)) is amended—

4 (1) in the matter preceding paragraph (1), by
5 striking “increase” and inserting “improve child
6 well-being by increasing”;

7 (2) in paragraph (1), by inserting “and serv-
8 ices” after “assistance”;

9 (3) in paragraph (2), by striking “parents on
10 government benefits” and inserting “families on gov-
11 ernment benefits and reduce poverty”; and

12 (4) in paragraph (4), by striking “two-parent
13 families” and inserting “healthy, 2-parent married
14 families, and encourage responsible fatherhood”.

15 SEC. 8102. FAMILY ASSISTANCE GRANTS.

16 (a) EXTENSION OF AUTHORITY.—Section
17 403(a)(1)(A) (42 U.S.C. 603(a)(1)(A)) is amended—

18 (1) by striking “1996, 1997, 1998, 1999, 2000,
19 2001, 2002, and 2003” and inserting “2006
20 through 2010”; and

21 (2) by inserting “payable to the State for the
22 fiscal year” before the period.

23 (b) STATE FAMILY ASSISTANCE GRANT.—Section
24 403(a)(1)(C) (42 U.S.C. 603(a)(1)(C)) is amended by

1 striking “fiscal year 2003” and inserting “each of fiscal
2 years 2006 through 2010”.

3 (c) MATCHING GRANTS FOR THE TERRITORIES.—
4 Section 1108(b)(2) (42 U.S.C. 1308(b)(2)) is amended by
5 striking “1997 through 2003” and inserting “2006
6 through 2010”.

7 **SEC. 8103. PROMOTION OF FAMILY FORMATION AND**
8 **HEALTHY MARRIAGE.**

9 (a) STATE PLANS.—Section 402(a)(1)(A) (42 U.S.C.
10 602(a)(1)(A)) is amended by adding at the end the fol-
11 lowing:

12 “(vii) Encourage equitable treatment
13 of married, 2-parent families under the
14 program referred to in clause (i).”.

15 (b) HEALTHY MARRIAGE PROMOTION GRANTS; RE-
16 PEAL OF BONUS FOR REDUCTION OF ILLEGITIMACY
17 RATIO.—Section 403(a)(2) (42 U.S.C. 603(a)(2)) is
18 amended to read as follows:

19 “(2) HEALTHY MARRIAGE PROMOTION
20 GRANTS.—

21 “(A) AUTHORITY.—The Secretary shall
22 award competitive grants to States, territories,
23 and tribal organizations for not more than 50
24 percent of the cost of developing and imple-

1 menting innovative programs to promote and
2 support healthy, married, 2-parent families.

3 “(B) HEALTHY MARRIAGE PROMOTION AC-
4 TIVITIES.—Funds provided under subparagraph
5 (A) shall be used to support any of the fol-
6 lowing programs or activities:

7 “(i) Public advertising campaigns on
8 the value of marriage and the skills needed
9 to increase marital stability and health.

10 “(ii) Education in high schools on the
11 value of marriage, relationship skills, and
12 budgeting.

13 “(iii) Marriage education, marriage
14 skills, and relationship skills programs,
15 that may include parenting skills, financial
16 management, conflict resolution, and job
17 and career advancement, for non-married
18 pregnant women and non-married expect-
19 ant fathers.

20 “(iv) Pre-marital education and mar-
21 riage skills training for engaged couples
22 and for couples or individuals interested in
23 marriage.

1 “(v) Marriage enhancement and mar-
2 riage skills training programs for married
3 couples.

4 “(vi) Divorce reduction programs that
5 teach relationship skills.

6 “(vii) Marriage mentoring programs
7 which use married couples as role models
8 and mentors in at-risk communities.

9 “(viii) Programs to reduce the dis-
10 incentives to marriage in means-tested aid
11 programs, if offered in conjunction with
12 any activity described in this subpara-
13 graph.

14 “(C) VOLUNTARY PARTICIPATION.—

15 “(i) IN GENERAL.—Participation in a
16 program or activity described in any of
17 clauses (iii) through (viii) of subparagraph
18 (B) shall be voluntary.

19 “(ii) REQUIREMENTS FOR RECEIPT OF
20 FUNDS.—The Secretary may not award a
21 grant under this paragraph to an applicant
22 for the grant, unless—

23 “(I) the application for the grant
24 describes—

1 “(aa) how the programs or
2 activities proposed in the applica-
3 tion will address, as appropriate,
4 issues of domestic violence; and

5 “(bb) what the applicant will
6 do, to the extent relevant, to en-
7 sure that participation in the
8 programs or activities is vol-
9 untary, and to inform potential
10 participants that their participa-
11 tion is voluntary; and

12 “(II) the applicant agrees that,
13 as a condition of receipt of the grant,
14 the applicant will consult with experts
15 in domestic violence or relevant com-
16 munity domestic violence coalitions in
17 developing the programs and activities
18 funded with the grant.

19 “(D) APPROPRIATION.—Out of any money
20 in the Treasury of the United States not other-
21 wise appropriated, there are appropriated for
22 each of fiscal years 2006 through 2010
23 \$100,000,000 for grants under this para-
24 graph.”.

1 (c) COUNTING OF SPENDING ON NON-ELIGIBLE
2 FAMILIES TO PREVENT AND REDUCE INCIDENCE OF
3 OUT-OF-WEDLOCK BIRTHS, ENCOURAGE FORMATION
4 AND MAINTENANCE OF HEALTHY, 2-PARENT MARRIED
5 FAMILIES, OR ENCOURAGE RESPONSIBLE FATHER-
6 HOOD.—Section 409(a)(7)(B)(i) (42 U.S.C.
7 609(a)(7)(B)(i)) is amended by adding at the end the fol-
8 lowing:

9 “(V) COUNTING OF SPENDING
10 ON NON-ELIGIBLE FAMILIES TO PRE-
11 VENT AND REDUCE INCIDENCE OF
12 OUT-OF-WEDLOCK BIRTHS, ENCOUR-
13 AGE FORMATION AND MAINTENANCE
14 OF HEALTHY, 2-PARENT MARRIED
15 FAMILIES, OR ENCOURAGE RESPON-
16 SIBLE FATHERHOOD.—The term
17 ‘qualified State expenditures’ includes
18 the total expenditures by the State
19 during the fiscal year under all State
20 programs for a purpose described in
21 paragraph (3) or (4) of section
22 401(a).”.

1 **SEC. 8104. SUPPLEMENTAL GRANT FOR POPULATION IN-**
2 **CREASES IN CERTAIN STATES.**

3 Section 403(a)(3) (42 U.S.C. 603(a)(3)) is amend-
4 ed—

5 (1) in subparagraph (E)—

6 (A) by striking “1998, 1999, 2000, and
7 2001” and inserting “2006 through 2009”; and

8 (B) by striking “, in a total amount not to
9 exceed \$800,000,000”;

10 (2) in subparagraph (G), by striking “2001”
11 and inserting “2009”; and

12 (3) by striking subparagraph (H) and inserting
13 the following:

14 “(H) FURTHER PRESERVATION OF GRANT
15 AMOUNTS.—A State that was a qualifying State
16 under this paragraph for fiscal year 2004 or
17 any prior fiscal year shall be entitled to receive
18 from the Secretary for each of fiscal years 2006
19 through 2009 a grant in an amount equal to
20 the amount required to be paid to the State
21 under this paragraph for the most recent fiscal
22 year for which the State was a qualifying
23 State.”.

24 **SEC. 8105. ELIMINATION OF HIGH PERFORMANCE BONUS.**

25 Section 403(a) (42 U.S.C. 603(a)) is amended by
26 striking paragraph (4).

1 **SEC. 8106. CONTINGENCY FUND.**

2 (a) DEPOSITS INTO FUND.—Section 403(b)(2) (42
3 U.S.C. 603(b)(2)) is amended—

4 (1) by striking “1997, 1998, 1999, 2000, 2001,
5 2002, and 2003” and inserting “2006 through
6 2010”; and

7 (2) by striking all that follows
8 “\$2,000,000,000” and inserting a period.

9 (b) GRANTS.—Section 403(b)(3)(C)(ii) (42 U.S.C.
10 603(b)(3)(C)(ii)) is amended by striking “fiscal years
11 1997 through 2006” and inserting “fiscal years 2006
12 through 2010”.

13 (c) DEFINITION OF NEEDY STATE.—Clauses (i) and
14 (ii) of section 403(b)(5)(B) (42 U.S.C. 603(b)(5)(B)) are
15 amended by inserting after “1996” the following: “and the
16 Food Stamp Act of 1977 as in effect during the cor-
17 responding 3-month period in the fiscal year preceding
18 such most recently concluded 3-month period”.

19 (d) ANNUAL RECONCILIATION: FEDERAL MATCHING
20 OF STATE EXPENDITURES ABOVE “MAINTENANCE OF
21 EFFORT” LEVEL.—Section 403(b)(6) (42 U.S.C.
22 603(b)(6)) is amended—

23 (1) in subparagraph (A)(ii)—

24 (A) by adding “and” at the end of sub-
25 clause (I);

1 (B) by striking “; and” at the end of sub-
2 clause (II) and inserting a period; and

3 (C) by striking subclause (III);

4 (2) in subparagraph (B)(i)(II), by striking all
5 that follows “section 409(a)(7)(B)(iii)” and insert-
6 ing a period;

7 (3) by amending subparagraph (B)(ii)(I) to
8 read as follows:

9 “(I) the qualified State expendi-
10 tures (as defined in section
11 409(a)(7)(B)(i)) for the fiscal year;
12 plus”; and

13 (4) by striking subparagraph (C).

14 (e) CONSIDERATION OF CERTAIN CHILD CARE EX-
15 PENDITURES IN DETERMINING STATE COMPLIANCE
16 WITH CONTINGENCY FUND MAINTENANCE OF EFFORT
17 REQUIREMENT.—Section 409(a)(10) (42 U.S.C.
18 609(a)(10)) is amended—

19 (1) by striking “(other than the expenditures
20 described in subclause (I)(bb) of that paragraph))
21 under the State program funded under this part”
22 and inserting a close parenthesis; and

23 (2) by striking “excluding any amount ex-
24 pended by the State for child care under subsection

1 (g) or (i) of section 402 (as in effect during fiscal
2 year 1994) for fiscal year 1994,”.

3 (f) EFFECTIVE DATE.—The amendments made by
4 subsections (c), (d), and (e) shall take effect on October
5 1, 2007.

6 **SEC. 8107. USE OF FUNDS.**

7 (a) GENERAL RULES.—Section 404(a)(2) (42 U.S.C.
8 604(a)(2)) is amended by striking “in any manner that”
9 and inserting “for any purposes or activities for which”.

10 (b) TREATMENT OF INTERSTATE IMMIGRANTS.—

11 (1) STATE PLAN PROVISION.—Section
12 402(a)(1)(B) (42 U.S.C. 602(a)(1)(B)) is amended
13 by striking clause (i) and redesignating clauses (ii)
14 through (iv) as clauses (i) through (iii), respectively.

15 (2) USE OF FUNDS.—Section 404 (42 U.S.C.
16 604) is amended by striking subsection (c).

17 (c) INCREASE IN AMOUNT TRANSFERABLE TO CHILD
18 CARE.—Section 404(d)(1) (42 U.S.C. 604(d)(1)) is
19 amended by striking “30” and inserting “50”.

20 (d) INCREASE IN AMOUNT TRANSFERABLE TO TITLE
21 XX PROGRAMS.—Section 404(d)(2)(B) (42 U.S.C.
22 604(d)(2)(B)) is amended to read as follows:

23 “(B) APPLICABLE PERCENT.—For pur-
24 poses of subparagraph (A), the applicable per-

1 cent is 10 percent for fiscal year 2006 and each
2 succeeding fiscal year.”.

3 (e) CLARIFICATION OF AUTHORITY OF STATES TO
4 USE TANF FUNDS CARRIED OVER FROM PRIOR YEARS
5 TO PROVIDE TANF BENEFITS AND SERVICES.—Section
6 404(e) (42 U.S.C. 604(e)) is amended to read as follows:

7 “(e) AUTHORITY TO CARRYOVER OR RESERVE CER-
8 TAIN AMOUNTS FOR BENEFITS OR SERVICES OR FOR FU-
9 TURE CONTINGENCIES.—

10 “(1) CARRYOVER.—A State or tribe may use a
11 grant made to the State or tribe under this part for
12 any fiscal year to provide, without fiscal year limita-
13 tion, any benefit or service that may be provided
14 under the State or tribal program funded under this
15 part.

16 “(2) CONTINGENCY RESERVE.—A State or tribe
17 may designate any portion of a grant made to the
18 State or tribe under this part as a contingency re-
19 serve for future needs, and may use any amount so
20 designated to provide, without fiscal year limitation,
21 any benefit or service that may be provided under
22 the State or tribal program funded under this part.
23 If a State or tribe so designates a portion of such
24 a grant, the State shall, on an annual basis, include

1 in its report under section 411(a) the amount so
2 designated.”.

3 **SEC. 8108. REPEAL OF FEDERAL LOAN FOR STATE WEL-**
4 **FARE PROGRAMS.**

5 (a) REPEAL.—Effective as of October 1, 2006, sec-
6 tion 406 (42 U.S.C. 606) is repealed.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 409(a) (42 U.S.C. 609(a)) is
9 amended by striking paragraph (6).

10 (2) Section 412 (42 U.S.C. 612) is amended by
11 striking subsection (f) and redesignating subsections
12 (g) through (i) as subsections (f) through (h), re-
13 spectively.

14 (3) Section 1108(a)(2) (42 U.S.C. 1308(a)(2))
15 is amended by striking “406,”.

16 **SEC. 8109. UNIVERSAL ENGAGEMENT AND FAMILY SELF-**
17 **SUFFICIENCY PLAN REQUIREMENTS.**

18 (a) MODIFICATION OF STATE PLAN REQUIRE-
19 MENTS.—Section 402(a)(1)(A) (42 U.S.C. 602(a)(1)(A))
20 is amended by striking clauses (ii) and (iii) and inserting
21 the following:

22 “(ii) Require a parent or caretaker re-
23 ceiving assistance under the program to
24 engage in work or alternative self-suffi-

ciency activities (as defined by the State),
consistent with section 407(e)(2).

“(iii) Require families receiving assist-
ance under the program to engage in ac-
tivities in accordance with family self-suffi-
ciency plans developed pursuant to section
408(b).”.

(b) ESTABLISHMENT OF FAMILY SELF-SUFFICIENCY
PLANS.—

(1) IN GENERAL.—Section 408(b) (42 U.S.C.
608(b)) is amended to read as follows:

“(b) FAMILY SELF-SUFFICIENCY PLANS.—

“(1) IN GENERAL.—A State to which a grant
is made under section 403 shall—

“(A) assess, in the manner deemed appro-
priate by the State, the skills, prior work expe-
rience, and employability of each work-eligible
individual (as defined in section 407(b)(2)(C))
receiving assistance under the State program
funded under this part;

“(B) establish for each family that in-
cludes such an individual, in consultation as the
State deems appropriate with the individual, a
self-sufficiency plan that specifies appropriate
activities described in the State plan submitted

1 pursuant to section 402, including direct work
2 activities as appropriate designed to assist the
3 family in achieving their maximum degree of
4 self-sufficiency, and that provides for the ongoing
5 participation of the individual in the activities;
6 ties;

7 “(C) require, at a minimum, each such individual
8 to participate in activities in accordance with the self-sufficiency plan;
9

10 “(D) monitor the participation of each
11 such individual in the activities specified in the
12 self-sufficiency plan, and regularly review the
13 progress of the family toward self-sufficiency;

14 “(E) upon such a review, revise the self-sufficiency plan and activities as the State
15 deems appropriate.
16

17 “(2) TIMING.—The State shall comply with
18 paragraph (1) with respect to a family—

19 “(A) in the case of a family that, as of October 1, 2005, is not receiving assistance from
20 the State program funded under this part, not
21 later than 60 days after the family first receives
22 assistance on the basis of the most recent application for the assistance; or
23
24

1 “(B) in the case of a family that, as of
2 such date, is receiving the assistance, not later
3 than 12 months after the date of enactment of
4 this subsection.

5 “(3) STATE DISCRETION.—A State shall have
6 sole discretion, consistent with section 407, to define
7 and design activities for families for purposes of this
8 subsection, to develop methods for monitoring and
9 reviewing progress pursuant to this subsection, and
10 to make modifications to the plan as the State
11 deems appropriate to assist the individual in increas-
12 ing their degree of self-sufficiency.

13 “(4) RULE OF INTERPRETATION.—Nothing in
14 this part shall preclude a State from—

15 “(A) requiring participation in work and
16 any other activities the State deems appropriate
17 for helping families achieve self-sufficiency and
18 improving child well-being; or

19 “(B) using job search or other appropriate
20 job readiness or work activities to assess the
21 employability of individuals and to determine
22 appropriate future engagement activities.”.

23 (2) PENALTY FOR FAILURE TO ESTABLISH
24 FAMILY SELF-SUFFICIENCY PLAN.—Section
25 409(a)(3) (42 U.S.C. 609(a)(3)) is amended—

1 (A) in the paragraph heading, by inserting

2 “OR ESTABLISH FAMILY SELF-SUFFICIENCY
3 PLAN” after “RATES”; and

4 (B) in subparagraph (A), by inserting “or
5 408(b)” after “407(a)”.

6 **SEC. 8110. WORK PARTICIPATION REQUIREMENTS.**

7 (a) IN GENERAL.—Section 407 (42 U.S.C. 607) is
8 amended by striking all that precedes subsection (b)(3)
9 and inserting the following:

10 **“SEC. 407. WORK PARTICIPATION REQUIREMENTS.**

11 “(a) PARTICIPATION RATE REQUIREMENTS.—A
12 State to which a grant is made under section 403 for a
13 fiscal year shall achieve a minimum participation rate
14 equal to not less than—

15 “(1) 50 percent for fiscal year 2006;

16 “(2) 55 percent for fiscal year 2007;

17 “(3) 60 percent for fiscal year 2008;

18 “(4) 65 percent for fiscal year 2009; and

19 “(5) 70 percent for fiscal year 2010 and each
20 succeeding fiscal year.

21 “(b) CALCULATION OF PARTICIPATION RATES.—

22 “(1) AVERAGE MONTHLY RATE.—For purposes
23 of subsection (a), the participation rate of a State
24 for a fiscal year is the average of the participation
25 rates of the State for each month in the fiscal year.

1 “(2) MONTHLY PARTICIPATION RATES; INCOR-
2 PORATION OF 40-HOUR WORK WEEK STANDARD.—

3 “(A) IN GENERAL.—For purposes of para-
4 graph (1), the participation rate of a State for
5 a month is—

6 “(i) the total number of countable
7 hours (as defined in subsection (c)) with
8 respect to the counted families for the
9 State for the month; divided by

10 “(ii) 160 multiplied by the number of
11 counted families for the State for the
12 month.

13 “(B) COUNTED FAMILIES DEFINED.—

14 “(i) IN GENERAL.—In subparagraph
15 (A), the term ‘counted family’ means, with
16 respect to a State and a month, a family
17 that includes a work-eligible individual and
18 that receives assistance in the month under
19 the State program funded under this part,
20 subject to clause (ii).

21 “(ii) STATE OPTION TO EXCLUDE
22 CERTAIN FAMILIES.—At the option of a
23 State, the term ‘counted family’ shall not
24 include—

1 “(I) a family in the first month
2 for which the family receives assist-
3 ance from a State program funded
4 under this part on the basis of the
5 most recent application for such as-
6 sistance;

7 “(II) on a case-by-case basis, a
8 family in which the youngest child has
9 not attained 12 months of age; or

10 “(III) a family that is subject to
11 a sanction under this part or part D,
12 but that has not been subject to such
13 a sanction for more than 3 months
14 (whether or not consecutive) in the
15 preceding 12-month period.

16 “(iii) STATE OPTION TO INCLUDE IN-
17 DIVIDUALS RECEIVING ASSISTANCE UNDER
18 A TRIBAL FAMILY ASSISTANCE PLAN OR
19 TRIBAL WORK PROGRAM.—At the option of
20 a State, the term ‘counted family’ may in-
21 clude families in the State that are receiv-
22 ing assistance under a tribal family assist-
23 ance plan approved under section 412 or
24 under a tribal work program to which
25 funds are provided under this part.

“(C) WORK-ELIGIBLE INDIVIDUAL DEFINED.—In this section, the term ‘work-eligible individual’ means an individual—

“(i) who is married or a single head of household; and

“(ii) whose needs are (or, but for sanctions under this part or part D, would be) included in determining the amount of cash assistance to be provided to the family under the State program funded under this part.”.

(b) RECALIBRATION OF CASELOAD REDUCTION CREDIT.—

(1) IN GENERAL.—Section 407(b)(3)(A)(ii) (42 U.S.C. 607(b)(3)(A)(ii)) is amended to read as follows:

“(ii) the average monthly number of families that received assistance under the State program funded under this part during the base year.”.

(2) CONFORMING AMENDMENT.—Section 407(b)(3)(B) (42 U.S.C. 607(b)(3)(B)) is amended by striking “and eligibility criteria” and all that follows through the close parenthesis and inserting

1 “and the eligibility criteria in effect during the then
2 applicable base year”.

3 (3) BASE YEAR DEFINED.—Section 407(b)(3)
4 (42 U.S.C. 607(b)(3)) is amended by adding at the
5 end the following:

6 “(C) BASE YEAR DEFINED.—In this para-
7 graph, the term ‘base year’ means, with respect
8 to a fiscal year—

9 “(i) if the fiscal year is fiscal year
10 2006, fiscal year 1996;

11 “(ii) if the fiscal year is fiscal year
12 2007, fiscal year 1998;

13 “(iii) if the fiscal year is fiscal year
14 2008, fiscal year 2001; or

15 “(iv) if the fiscal year is fiscal year
16 2009 or any succeeding fiscal year, the
17 then 4th preceding fiscal year.”.

18 (c) SUPERACHIEVER CREDIT.—Section 407(b) (42
19 U.S.C. 607(b)) is amended by striking paragraphs (4) and
20 (5) and inserting the following:

21 “(4) SUPERACHIEVER CREDIT.—

22 “(A) IN GENERAL.—The participation
23 rate, determined under paragraphs (1) and (2)
24 of this subsection, of a superachiever State for

1 a fiscal year shall be increased by the lesser
2 of—

3 “(i) the amount (if any) of the super-
4 achiever credit applicable to the State; or

5 “(ii) the number of percentage points
6 (if any) by which the minimum participa-
7 tion rate required by subsection (a) for the
8 fiscal year exceeds 50 percent.

9 “(B) SUPERACHIEVER STATE.—For pur-
10 poses of subparagraph (A), a State is a super-
11 achiever State if the State caseload for fiscal
12 year 2001 has declined by at least 60 percent
13 from the State caseload for fiscal year 1995.

14 “(C) AMOUNT OF CREDIT.—The super-
15 achiever credit applicable to a State is the num-
16 ber of percentage points (if any) by which the
17 decline referred to in subparagraph (B) exceeds
18 60 percent.

19 “(D) DEFINITIONS.—In this paragraph:

20 “(i) STATE CASELOAD FOR FISCAL
21 YEAR 2001.—The term ‘State caseload for
22 fiscal year 2001’ means the average
23 monthly number of families that received
24 assistance during fiscal year 2001 under
25 the State program funded under this part.

1 “(ii) STATE CASELOAD FOR FISCAL
2 YEAR 1995.—The term ‘State caseload for
3 fiscal year 1995’ means the average
4 monthly number of families that received
5 aid under the State plan approved under
6 part A (as in effect on September 30,
7 1995) during fiscal year 1995.”.

8 (d) COUNTABLE HOURS.—Section 407 (42 U.S.C.
9 607) is amended by striking subsections (c) and (d) and
10 inserting the following:

11 “(c) COUNTABLE HOURS.—

12 “(1) DEFINITION.—In subsection (b)(2), the
13 term ‘countable hours’ means, with respect to a fam-
14 ily for a month, the total number of hours in the
15 month in which any member of the family who is a
16 work-eligible individual is engaged in a direct work
17 activity or other activities specified by the State (ex-
18 cluding an activity that does not address a purpose
19 specified in section 401(a)), subject to the other pro-
20 visions of this subsection.

21 “(2) LIMITATIONS.—Subject to such regula-
22 tions as the Secretary may prescribe:

23 “(A) MINIMUM WEEKLY AVERAGE OF 24
24 HOURS OF DIRECT WORK ACTIVITIES RE-
25 QUIRED.—If the work-eligible individuals in a

1 family are engaged in a direct work activity for
2 an average total of fewer than 24 hours per
3 week in a month, then the number of countable
4 hours with respect to the family for the month
5 shall be zero.

6 “(B) MAXIMUM WEEKLY AVERAGE OF 16
7 HOURS OF OTHER ACTIVITIES.—An average of
8 not more than 16 hours per week of activities
9 specified by the State (subject to the exclusion
10 described in paragraph (1)) may be considered
11 countable hours in a month with respect to a
12 family.

13 “(3) SPECIAL RULES.—For purposes of para-
14 graph (1):

15 “(A) PARTICIPATION IN QUALIFIED AC-
16 TIVITIES.—

17 “(i) IN GENERAL.—If, with the ap-
18 proval of the State, the work-eligible indi-
19 viduals in a family are engaged in 1 or
20 more qualified activities for an average
21 total of at least 24 hours per week in a
22 month, then all such engagement in the
23 month shall be considered engagement in a
24 direct work activity, subject to clause (iii).

1 “(ii) QUALIFIED ACTIVITY DE-
2 FINED.—The term ‘qualified activity’
3 means an activity specified by the State
4 (subject to the exclusion described in para-
5 graph (1)) that meets such standards and
6 criteria as the State may specify, includ-
7 ing—

8 “(I) substance abuse counseling
9 or treatment;

10 “(II) rehabilitation treatment
11 and services;

12 “(III) work-related education or
13 training directed at enabling the fam-
14 ily member to work;

15 “(IV) job search or job readiness
16 assistance; and

17 “(V) any other activity that ad-
18 dresses a purpose specified in section
19 401(a).

20 “(iii) LIMITATION.—

21 “(I) IN GENERAL.—Except as
22 provided in subclause (II), clause (i)
23 shall not apply to a family for more
24 than 3 months in any period of 24
25 consecutive months.

1 “(II) SPECIAL RULE APPLICABLE
2 TO EDUCATION AND TRAINING.—A
3 State may, on a case-by-case basis,
4 apply clause (i) to a work-eligible indi-
5 vidual so that participation by the in-
6 dividual in education or training, if
7 needed to permit the individual to
8 complete a certificate program or
9 other work-related education or train-
10 ing directed at enabling the individual
11 to fill a known job need in a local
12 area, may be considered countable
13 hours with respect to the family of the
14 individual for not more than 4 months
15 in any period of 24 consecutive
16 months.

17 “(B) SCHOOL ATTENDANCE BY TEEN
18 HEAD OF HOUSEHOLD.—The work-eligible
19 members of a family shall be considered to be
20 engaged in a direct work activity for an average
21 of 40 hours per week in a month if the family
22 includes an individual who is married, or is a
23 single head of household, who has not attained
24 20 years of age, and the individual—

1 “(i) maintains satisfactory attendance
2 at secondary school or the equivalent in
3 the month; or

4 “(ii) participates in education directly
5 related to employment for an average of at
6 least 20 hours per week in the month.

7 “(d) DIRECT WORK ACTIVITY.—In this section, the
8 term ‘direct work activity’ means—

9 “(1) unsubsidized employment;

10 “(2) subsidized private sector employment;

11 “(3) subsidized public sector employment;

12 “(4) on-the-job training;

13 “(5) supervised work experience; or

14 “(6) supervised community service.”.

15 (e) PENALTIES AGAINST INDIVIDUALS.—Section
16 407(e)(1) (42 U.S.C. 607(e)(1)) is amended to read as
17 follows:

18 “(1) REDUCTION OR TERMINATION OF ASSIST-
19 ANCE.—

20 “(A) IN GENERAL.—Except as provided in
21 paragraph (2), if an individual in a family re-
22 ceiving assistance under a State program fund-
23 ed under this part fails to engage in activities
24 required in accordance with this section, or
25 other activities required by the State under the

1 program, and the family does not otherwise en-
2 gage in activities in accordance with the self-
3 sufficiency plan established for the family pur-
4 suant to section 408(b), the State shall—

5 “(i) if the failure is partial or persists
6 for not more than 1 month—

7 “(I) reduce the amount of assist-
8 ance otherwise payable to the family
9 pro rata (or more, at the option of the
10 State) with respect to any period dur-
11 ing a month in which the failure oc-
12 curs; or

13 “(II) terminate all assistance to
14 the family, subject to such good cause
15 exceptions as the State may establish;
16 or

17 “(ii) if the failure is total and persists
18 for at least 2 consecutive months, termi-
19 nate all cash payments to the family in-
20 cluding qualified State expenditures (as de-
21 fined in section 409(a)(7)(B)(i)) for at
22 least 1 month and thereafter until the
23 State determines that the individual has
24 resumed full participation in the activities,

1 subject to such good cause exceptions as
2 the State may establish.

3 “(B) SPECIAL RULE.—

4 “(i) IN GENERAL.—In the event of a
5 conflict between a requirement of clause
6 (i)(II) or (ii) of subparagraph (A) and a
7 requirement of a State constitution, or of
8 a State statute that, before 1966, obligated
9 local government to provide assistance to
10 needy parents and children, the State con-
11 stitutional or statutory requirement shall
12 control.

13 “(ii) LIMITATION.—Clause (i) of this
14 subparagraph shall not apply after the 1-
15 year period that begins with the date of
16 the enactment of this subparagraph.”.

17 (f) CONFORMING AMENDMENTS.—

18 (1) Section 407(f) (42 U.S.C. 607(f)) is amend-
19 ed in each of paragraphs (1) and (2) by striking
20 “work activity described in subsection (d)” and in-
21 serting “direct work activity”.

22 (2) The heading of section 409(a)(14) (42
23 U.S.C. 609(a)(14)) is amended by inserting “OR RE-
24 FUSING TO ENGAGE IN ACTIVITIES UNDER A FAMILY
25 SELF-SUFFICIENCY PLAN” after “WORK”.

1 **SEC. 8111. MAINTENANCE OF EFFORT.**

2 (a) IN GENERAL.—Section 409(a)(7) (42 U.S.C.
3 609(a)(7)) is amended—

4 (1) in subparagraph (A), by striking “fiscal
5 year 1998, 1999, 2000, 2001, 2002, 2003, 2004,
6 2005, 2006, or 2007” and inserting “fiscal year
7 2006, 2007, 2008, 2009, 2010, or 2011”; and

8 (2) in subparagraph (B)(ii)—

9 (A) by inserting “preceding” before “fiscal
10 year”; and

11 (B) by striking “for fiscal years 1997
12 through 2006,”.

13 (b) STATE SPENDING ON PROMOTING HEALTHY
14 MARRIAGE.—

15 (1) IN GENERAL.—Section 404 (42 U.S.C. 604)
16 is amended by adding at the end the following:

17 “(l) MARRIAGE PROMOTION.—A State, territory, or
18 tribal organization to which a grant is made under section
19 403(a)(2) may use a grant made to the State, territory,
20 or tribe under any other provision of section 403 for mar-
21 riage promotion activities, and the amount of any such
22 grant so used shall be considered State funds for purposes
23 of section 403(a)(2).”.

24 (2) FEDERAL TANF FUNDS USED FOR MAR-
25 RIAGE PROMOTION DISREGARDED FOR PURPOSES OF
26 MAINTENANCE OF EFFORT REQUIREMENT.—Section

1 409(a)(7)(B)(i) (42 U.S.C. 609(a)(7)(B)(i)), as
 2 amended by section 8103(c) of this Act, is amended
 3 by adding at the end the following:

4 “(VI) EXCLUSION OF FEDERAL
 5 TANF FUNDS USED FOR MARRIAGE
 6 PROMOTION ACTIVITIES.—Such term
 7 does not include the amount of any
 8 grant made to the State under section
 9 403 that is expended for a marriage
 10 promotion activity.”.

11 **SEC. 8112. PERFORMANCE IMPROVEMENT.**

12 (a) STATE PLANS.—Section 402(a) (42 U.S.C.
 13 602(a)) is amended—

14 (1) in paragraph (1)—

15 (A) in subparagraph (A)—

16 (i) by redesignating clause (vi) and
 17 clause (vii) (as added by section 8103(a) of
 18 this Act) as clauses (vii) and (viii), respec-
 19 tively; and

20 (ii) by striking clause (v) and insert-
 21 ing the following:

22 “(v) The document shall—

23 “(I) describe how the State will
 24 pursue ending dependence of needy
 25 families on government benefits and

1 reducing poverty by promoting job
2 preparation and work;

3 “(II) describe how the State will
4 encourage the formation and mainte-
5 nance of healthy 2-parent married
6 families, encourage responsible father-
7 hood, and prevent and reduce the inci-
8 dence of out-of-wedlock pregnancies;

9 “(III) include specific, numerical,
10 and measurable performance objec-
11 tives for accomplishing subclauses (I)
12 and (II); and

13 “(IV) describe the methodology
14 that the State will use to measure
15 State performance in relation to each
16 such objective.

17 “(vi) Describe any strategies and pro-
18 grams the State may be undertaking to ad-
19 dress—

20 “(I) employment retention and
21 advancement for recipients of assist-
22 ance under the program, including
23 placement into high-demand jobs, and
24 whether the jobs are identified using
25 labor market information;

1 “(II) efforts to reduce teen preg-
2 nancy;

3 “(III) services for struggling and
4 noncompliant families, and for clients
5 with special problems; and

6 “(IV) program integration, in-
7 cluding the extent to which employ-
8 ment and training services under the
9 program are provided through the
10 One-Stop delivery system created
11 under the Workforce Investment Act
12 of 1998, and the extent to which
13 former recipients of such assistance
14 have access to additional core, inten-
15 sive, or training services funded
16 through such Act.”; and

17 (B) in subparagraph (B), by striking
18 clause (iii) (as so redesignated by section
19 8107(b)(1) of this Act) and inserting the fol-
20 lowing:

21 “(iii) The document shall describe
22 strategies and programs the State is un-
23 dertaking to engage religious organizations
24 in the provision of services funded under
25 this part and efforts related to section 104

1 of the Personal Responsibility and Work
2 Opportunity Reconciliation Act of 1996.

3 “(iv) The document shall describe
4 strategies to improve program manage-
5 ment and performance.”; and

6 (2) in paragraph (4), by inserting “and tribal”
7 after “that local”.

8 (b) CONSULTATION WITH STATE REGARDING PLAN
9 AND DESIGN OF TRIBAL PROGRAMS.—Section 412(b)(1)
10 (42 U.S.C. 612(b)(1)) is amended—

11 (1) by striking “and” at the end of subpara-
12 graph (E);

13 (2) by striking the period at the end of sub-
14 paragraph (F) and inserting “; and”; and

15 (3) by adding at the end the following:

16 “(G) provides an assurance that the State
17 in which the tribe is located has been consulted
18 regarding the plan and its design.”.

19 (c) PERFORMANCE MEASURES.—Section 413 (42
20 U.S.C. 613) is amended by adding at the end the fol-
21 lowing:

22 “(k) PERFORMANCE IMPROVEMENT.—The Secretary,
23 in consultation with the States, shall develop uniform per-
24 formance measures designed to assess the degree of effec-
25 tiveness, and the degree of improvement, of State pro-

1 grams funded under this part in accomplishing the pur-
2 poses of this part.”.

3 (d) ANNUAL RANKING OF STATES.—Section
4 413(d)(1) (42 U.S.C. 613(d)(1)) is amended by striking
5 “long-term private sector jobs” and inserting “private sec-
6 tor jobs, the success of the recipients in retaining employ-
7 ment, the ability of the recipients to increase their wages”.

8 **SEC. 8113. DATA COLLECTION AND REPORTING.**

9 (a) CONTENTS OF REPORT.—Section 411(a)(1)(A)
10 (42 U.S.C. 611(a)(1)(A)) is amended—

11 (1) in the matter preceding clause (i), by insert-
12 ing “and on families receiving assistance under
13 State programs funded with other qualified State ex-
14 penditures (as defined in section 409(a)(7)(B))” be-
15 fore the colon;

16 (2) in clause (vii), by inserting “and minor par-
17 ent” after “of each adult”;

18 (3) in clause (viii), by striking “and educational
19 level”;

20 (4) in clause (ix), by striking “, and if the lat-
21 ter 2, the amount received”;

22 (5) in clause (x)—

23 (A) by striking “each type of”; and

1 (B) by inserting before the period “and, if
2 applicable, the reason for receipt of the assist-
3 ance for a total of more than 60 months”;

4 (6) in clause (xi), by striking the subclauses
5 and inserting the following:

6 “(I) Subsidized private sector
7 employment.

8 “(II) Unsubsidized employment.

9 “(III) Public sector employment,
10 supervised work experience, or super-
11 vised community service.

12 “(IV) On-the-job training.

13 “(V) Job search and placement.

14 “(VI) Training.

15 “(VII) Education.

16 “(VIII) Other activities directed
17 at the purposes of this part, as speci-
18 fied in the State plan submitted pur-
19 suant to section 402.”;

20 (7) in clause (xii), by inserting “and progress
21 toward universal engagement” after “participation
22 rates”;

23 (8) in clause (xiii), by striking “type and”;

1 (9) in clause (xvi), by striking subclause (II)
2 and redesignating subclauses (III) through (V) as
3 subclauses (II) through (IV), respectively; and

4 (10) by adding at the end the following:

5 “(xviii) The date the family first re-
6 ceived assistance from the State program
7 on the basis of the most recent application
8 for such assistance.

9 “(xix) Whether a self-sufficiency plan
10 is established for the family in accordance
11 with section 408(b).

12 “(xx) With respect to any child in the
13 family, the marital status of the parents at
14 the birth of the child, and if the parents
15 were not then married, whether the pater-
16 nity of the child has been established.”.

17 (b) USE OF SAMPLES.—Section 411(a)(1)(B) (42
18 U.S.C. 611(a)(1)(B)) is amended—

19 (1) in clause (i)—

20 (A) by striking “a sample” and inserting
21 “samples”; and

22 (B) by inserting before the period “, except
23 that the Secretary may designate core data ele-
24 ments that must be reported on all families”;
25 and

1 (2) in clause (ii), by striking “funded under this
2 part” and inserting “described in subparagraph
3 (A)”.

4 (c) REPORT ON FAMILIES THAT BECOME INELI-
5 GIBLE TO RECEIVE ASSISTANCE.—Section 411(a) (42
6 U.S.C. 611(a)) is amended—

7 (1) by striking paragraph (5);

8 (2) by redesignating paragraph (6) as para-
9 graph (5); and

10 (3) by inserting after paragraph (5) (as so re-
11 designated) the following:

12 “(6) REPORT ON FAMILIES THAT BECOME IN-
13 ELIGIBLE TO RECEIVE ASSISTANCE.—The report re-
14 quired by paragraph (1) for a fiscal quarter shall in-
15 clude for each month in the quarter the number of
16 families and total number of individuals that, during
17 the month, became ineligible to receive assistance
18 under the State program funded under this part
19 (broken down by the number of families that become
20 so ineligible due to earnings, changes in family com-
21 position that result in increased earnings, sanctions,
22 time limits, or other specified reasons).”.

23 (d) REGULATIONS.—Section 411(a)(7) (42 U.S.C.
24 611(a)(7)) is amended—

1 (1) by inserting “and to collect the necessary
2 data” before “with respect to which reports”;

3 (2) by striking “subsection” and inserting “sec-
4 tion”; and

5 (3) by striking “in defining the data elements”
6 and all that follows and inserting “, the National
7 Governors’ Association, the American Public Human
8 Services Association, the National Conference of
9 State Legislatures, and others in defining the data
10 elements.”.

11 (e) ADDITIONAL REPORTS BY STATES.—Section 411
12 (42 U.S.C. 611) is amended—

13 (1) by redesignating subsection (b) as sub-
14 section (e); and

15 (2) by inserting after subsection (a) the fol-
16 lowing:

17 “(b) ANNUAL REPORTS ON PROGRAM CHARACTERIS-
18 TICS.—Not later than 90 days after the end of fiscal year
19 2006 and each succeeding fiscal year, each eligible State
20 shall submit to the Secretary a report on the characteris-
21 tics of the State program funded under this part and other
22 State programs funded with qualified State expenditures
23 (as defined in section 409(a)(7)(B)(i)). The report shall
24 include, with respect to each such program, the program
25 name, a description of program activities, the program

1 purpose, the program eligibility criteria, the sources of
2 program funding, the number of program beneficiaries,
3 sanction policies, and any program work requirements.

4 “(c) MONTHLY REPORTS ON CASELOAD.—Not later
5 than 3 months after the end of a calendar month that
6 begins 1 year or more after the enactment of this sub-
7 section, each eligible State shall submit to the Secretary
8 a report on the number of families and total number of
9 individuals receiving assistance in the calendar month
10 under the State program funded under this part.

11 “(d) ANNUAL REPORT ON PERFORMANCE IMPROVE-
12 MENT.—Beginning with fiscal year 2007, not later than
13 January 1 of each fiscal year, each eligible State shall sub-
14 mit to the Secretary a report on achievement and improve-
15 ment during the preceding fiscal year under the numerical
16 performance goals and measures under the State program
17 funded under this part with respect to each of the matters
18 described in section 402(a)(1)(A)(v).”.

19 (f) ANNUAL REPORTS TO CONGRESS BY THE SEC-
20 RETARY.—Section 411(e), as so redesignated by sub-
21 section (e) of this section, is amended—

22 (1) in the matter preceding paragraph (1), by
23 striking “and each fiscal year thereafter” and insert-
24 ing “and by July 1 of each fiscal year thereafter”;

1 (2) in paragraph (2), by striking “families ap-
2 plying for assistance,” and by striking the last
3 comma; and

4 (3) in paragraph (3), by inserting “and other
5 programs funded with qualified State expenditures
6 (as defined in section 409(a)(7)(B)(i))” before the
7 semicolon.

8 (g) INCREASED ANALYSIS OF STATE SINGLE AUDIT
9 REPORTS.—Section 411 (42 U.S.C. 611) is amended by
10 adding at the end the following:

11 “(f) INCREASED ANALYSIS OF STATE SINGLE AUDIT
12 REPORTS.—

13 “(1) IN GENERAL.—Within 3 months after a
14 State submits to the Secretary a report pursuant to
15 section 7502(a)(1)(A) of title 31, United States
16 Code, the Secretary shall analyze the report for the
17 purpose of identifying the extent and nature of prob-
18 lems related to the oversight by the State of non-
19 governmental entities with respect to contracts en-
20 tered into by such entities with the State program
21 funded under this part, and determining what addi-
22 tional actions may be appropriate to help prevent
23 and correct the problems.

24 “(2) INCLUSION OF PROGRAM OVERSIGHT SEC-
25 TION IN ANNUAL REPORT TO THE CONGRESS.—The

1 Secretary shall include in each report under sub-
2 section (e) a section on oversight of State programs
3 funded under this part, including findings on the ex-
4 tent and nature of the problems referred to in para-
5 graph (1), actions taken to resolve the problems, and
6 to the extent the Secretary deems appropriate make
7 recommendations on changes needed to resolve the
8 problems.”.

9 **SEC. 8114. DIRECT FUNDING AND ADMINISTRATION BY IN-**
10 **DIAN TRIBES.**

11 (a) TRIBAL FAMILY ASSISTANCE GRANT.—Section
12 412(a)(1)(A) (42 U.S.C. 612(a)(1)(A)) is amended by
13 striking “1997, 1998, 1999, 2000, 2001, 2002, and 2003”
14 and inserting “2006 through 2010”.

15 (b) GRANTS FOR INDIAN TRIBES THAT RECEIVED
16 JOBS FUNDS.—Section 412(a)(2)(A) (42 U.S.C.
17 612(a)(2)(A)) is amended by striking “1997, 1998, 1999,
18 2000, 2001, 2002, and 2003” and inserting “2006
19 through 2010”.

20 **SEC. 8115. RESEARCH, EVALUATIONS, AND NATIONAL**
21 **STUDIES.**

22 (a) SECRETARY’S FUND FOR RESEARCH, DEM-
23 ONSTRATIONS, AND TECHNICAL ASSISTANCE.—Section
24 413 (42 U.S.C. 613), as amended by section 8112(c) of

1 this Act, is further amended by adding at the end the fol-
2 lowing:

3 “(I) FUNDING FOR RESEARCH, DEMONSTRATIONS,
4 AND TECHNICAL ASSISTANCE.—

5 “(1) APPROPRIATION.—Out of any money in
6 the Treasury of the United States not otherwise ap-
7 propriated, there are appropriated \$102,000,000 for
8 each of fiscal years 2006 through 2010, which shall
9 be available to the Secretary for the purpose of con-
10 ducting and supporting research and demonstration
11 projects by public or private entities, and providing
12 technical assistance to States, Indian tribal organi-
13 zations, and such other entities as the Secretary
14 may specify that are receiving a grant under this
15 part, which shall be expended primarily on activities
16 described in section 403(a)(2)(B), and which shall
17 be in addition to any other funds made available
18 under this part. The Secretary may not provide an
19 entity with funds made available under this para-
20 graph unless the entity agrees that, as a condition
21 of receipt of the funds for a program or activity de-
22 scribed in any of clauses (iii) through (viii) of sec-
23 tion 403(a)(2)(B), the entity will comply with sub-
24 clauses (I) and (II) of section 403(a)(2)(C)(ii).

1 “(2) SET ASIDE FOR DEMONSTRATION
2 PROJECTS FOR COORDINATION OF PROVISION OF
3 CHILD WELFARE AND TANF SERVICES TO TRIBAL
4 FAMILIES AT RISK OF CHILD ABUSE OR NEGLECT.—

5 “(A) IN GENERAL.—Of the amounts made
6 available under paragraph (1) for a fiscal year,
7 \$2,000,000 shall be awarded on a competitive
8 basis to fund demonstration projects designed
9 to test the effectiveness of tribal governments
10 or tribal consortia in coordinating the provision
11 to tribal families at risk of child abuse or ne-
12 glect of child welfare services and services
13 under tribal programs funded under this part.

14 “(B) USE OF FUNDS.—A grant made to
15 such a project shall be used—

16 “(i) to improve case management for
17 families eligible for assistance from such a
18 tribal program;

19 “(ii) for supportive services and as-
20 sistance to tribal children in out-of-home
21 placements and the tribal families caring
22 for such children, including families who
23 adopt such children; and

1 “(iii) for prevention services and as-
2 sistance to tribal families at risk of child
3 abuse and neglect.

4 “(C) REPORTS.—The Secretary may re-
5 quire a recipient of funds awarded under this
6 paragraph to provide the Secretary with such
7 information as the Secretary deems relevant to
8 enable the Secretary to facilitate and oversee
9 the administration of any project for which
10 funds are provided under this paragraph.”.

11 (b) FUNDING OF STUDIES AND DEMONSTRATIONS.—
12 Section 413(h)(1) (42 U.S.C. 613(h)(1)) is amended in
13 the matter preceding subparagraph (A) by striking “1997
14 through 2002” and inserting “2006 through 2010”.

15 (c) REPORT ON ENFORCEMENT OF CERTAIN AFFIDA-
16 VITS OF SUPPORT AND SPONSOR DEEMING.—Not later
17 than March 31, 2006, the Secretary of Health and Human
18 Services, in consultation with the Attorney General, shall
19 submit to the Congress a report on the enforcement of
20 affidavits of support and sponsor deeming as required by
21 section 421, 422, and 432 of the Personal Responsibility
22 and Work Opportunity Reconciliation Act of 1996.

23 (d) REPORT ON COORDINATION.—Not later than 6
24 months after the date of the enactment of this Act, the
25 Secretary of Health and Human Services and the Sec-

1 retary of Labor shall jointly submit a report to the Con-
2 gress describing common or conflicting data elements,
3 definitions, performance measures, and reporting require-
4 ments in the Workforce Investment Act of 1998 and part
5 A of title IV of the Social Security Act, and, to the degree
6 each Secretary deems appropriate, at the discretion of ei-
7 ther Secretary, any other program administered by the re-
8 spective Secretary, to allow greater coordination between
9 the welfare and workforce development systems.

10 **SEC. 8116. STUDY BY THE CENSUS BUREAU.**

11 (a) IN GENERAL.—Section 414(a) (42 U.S.C.
12 614(a)) is amended to read as follows:

13 “(a) IN GENERAL.—The Bureau of the Census shall
14 implement or enhance a longitudinal survey of program
15 participation, developed in consultation with the Secretary
16 and made available to interested parties, to allow for the
17 assessment of the outcomes of continued welfare reform
18 on the economic and child well-being of low-income fami-
19 lies with children, including those who received assistance
20 or services from a State program funded under this part,
21 and, to the extent possible, shall provide State representa-
22 tive samples. The content of the survey should include
23 such information as may be necessary to examine the
24 issues of out-of-wedlock childbearing, marriage, welfare
25 dependency and compliance with work requirements, the

1 beginning and ending of spells of assistance, work, earn-
2 ings and employment stability, and the well-being of chil-
3 dren.”.

4 (b) APPROPRIATION.—Section 414(b) (42 U.S.C.
5 614(b)) is amended—

6 (1) by striking “1996,” and all that follows
7 through “2003” and inserting “2006 through
8 2010”; and

9 (2) by adding at the end the following: “Funds
10 appropriated under this subsection shall remain
11 available through fiscal year 2010 to carry out sub-
12 section (a).”.

13 **SEC. 8117. DEFINITION OF ASSISTANCE.**

14 (a) IN GENERAL.—Section 419 (42 U.S.C. 619) is
15 amended by adding at the end the following:

16 “(6) ASSISTANCE.—

17 “(A) IN GENERAL.—The term ‘assistance’
18 means payment, by cash, voucher, or other
19 means, to or for an individual or family for the
20 purpose of meeting a subsistence need of the in-
21 dividual or family (including food, clothing,
22 shelter, and related items, but not including
23 costs of transportation or child care).

24 “(B) EXCEPTION.—The term ‘assistance’
25 does not include a payment described in sub-

1 paragraph (A) to or for an individual or family
2 on a short-term, nonrecurring basis (as defined
3 by the State in accordance with regulations pre-
4 scribed by the Secretary).”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 404(a)(1) (42 U.S.C. 604(a)(1)) is
7 amended by striking “assistance” and inserting
8 “aid”.

9 (2) Section 404(f) (42 U.S.C. 604(f)) is amend-
10 ed by striking “assistance” and inserting “benefits
11 or services”.

12 (3) Section 408(a)(5)(B)(i) (42 U.S.C.
13 608(a)(5)(B)(i)) is amended in the heading by strik-
14 ing “ASSISTANCE” and inserting “AID”.

15 (4) Section 413(d)(2) (42 U.S.C. 613(d)(2)) is
16 amended by striking “assistance” and inserting
17 “aid”.

18 **SEC. 8118. TECHNICAL CORRECTIONS.**

19 (a) Section 409(c)(2) (42 U.S.C. 609(c)(2)) is
20 amended by inserting a comma after “appropriate”.

21 (b) Section 411(a)(1)(A)(ii)(III) (42 U.S.C.
22 611(a)(1)(A)(ii)(III)) is amended by striking the last close
23 parenthesis.

24 (c) Section 413(j)(2)(A) (42 U.S.C. 613(j)(2)(A)) is
25 amended by striking “section” and inserting “sections”.

1 (d)(1) Section 413 (42 U.S.C. 613) is amended by
2 striking subsection (g) and redesignating subsections (h)
3 through (j) and subsections (k) and (l) (as added by sec-
4 tions 8112(c) and 8115(a) of this Act, respectively) as
5 subsections (g) through (k), respectively.

6 (2) Each of the following provisions is amended by
7 striking “413(j)” and inserting “413(i)”:

8 (A) Section 403(a)(5)(A)(ii)(III) (42 U.S.C.
9 603(a)(5)(A)(ii)(III)).

10 (B) Section 403(a)(5)(F) (42 U.S.C.
11 603(a)(5)(F)).

12 (C) Section 403(a)(5)(G)(ii) (42 U.S.C.
13 603(a)(5)(G)(ii)).

14 (D) Section 412(a)(3)(B)(iv) (42 U.S.C.
15 612(a)(3)(B)(iv)).

16 **SEC. 8119. FATHERHOOD PROGRAM.**

17 (a) SHORT TITLE.—This section may be cited as the
18 “Promotion and Support of Responsible Fatherhood and
19 Healthy Marriage Act of 2005”.

20 (b) FATHERHOOD PROGRAM.—

21 (1) IN GENERAL.—Title I of the Personal Re-
22 sponsibility and Work Opportunity Reconciliation
23 Act of 1996 (Public Law 104–193) is amended by
24 adding at the end the following:

1 **“SEC. 117. FATHERHOOD PROGRAM.**

2 “(a) IN GENERAL.—Title IV (42 U.S.C. 601–679b)
3 is amended by inserting after part B the following:

4 **‘PART C—FATHERHOOD PROGRAM**

5 **‘SEC. 441. FINDINGS AND PURPOSES.**

6 ‘(a) FINDINGS.—The Congress finds that there is
7 substantial evidence strongly indicating the urgent need
8 to promote and support involved, committed, and respon-
9 sible fatherhood, and to encourage and support healthy
10 marriages between parents raising children, including data
11 demonstrating the following:

12 ‘(1) In approximately 84 percent of cases where
13 a parent is absent, that parent is the father.

14 ‘(2) If current trends continue, half of all chil-
15 dren born today will live apart from one of their par-
16 ents, usually their father, at some point before they
17 turn 18.

18 ‘(3) Where families (whether intact or with a
19 parent absent) are living in poverty, a significant
20 factor is the father’s lack of job skills.

21 ‘(4) Committed and responsible fathering dur-
22 ing infancy and early childhood contributes to the
23 development of emotional security, curiosity, and
24 math and verbal skills.

25 ‘(5) An estimated 19,400,000 children (27 per-
26 cent) live apart from their biological father.

1 ‘(6) Forty percent of children under age 18 not
2 living with their biological father had not seen their
3 father even once in the last 12 months, according to
4 national survey data.

5 ‘(b) PURPOSES.—The purposes of this part are:

6 ‘(1) To provide for projects and activities by
7 public entities and by nonprofit community entities,
8 including religious organizations, designed to test
9 promising approaches to accomplishing the following
10 objectives:

11 ‘(A) Promoting responsible, caring, and ef-
12 fective parenting through counseling, men-
13 toring, and parenting education, dissemination
14 of educational materials and information on
15 parenting skills, encouragement of positive fa-
16 ther involvement, including the positive involve-
17 ment of nonresident fathers, and other meth-
18 ods.

19 ‘(B) Enhancing the abilities and commit-
20 ment of unemployed or low-income fathers to
21 provide material support for their families and
22 to avoid or leave welfare programs by assisting
23 them to take full advantage of education, job
24 training, and job search programs, to improve
25 work habits and work skills, to secure career

1 advancement by activities such as outreach and
2 information dissemination, coordination, as ap-
3 propriate, with employment services and job
4 training programs, including the One-Stop de-
5 livery system established under title I of the
6 Workforce Investment Act of 1998, encourage-
7 ment and support of timely payment of current
8 child support and regular payment toward past
9 due child support obligations in appropriate
10 cases, and other methods.

11 ‘(C) Improving fathers’ ability to effec-
12 tively manage family business affairs by means
13 such as education, counseling, and mentoring in
14 matters including household management,
15 budgeting, banking, and handling of financial
16 transactions, time management, and home
17 maintenance.

18 ‘(D) Encouraging and supporting healthy
19 marriages and married fatherhood through such
20 activities as premarital education, including the
21 use of premarital inventories, marriage prepara-
22 tion programs, skills-based marriage education
23 programs, marital therapy, couples counseling,
24 divorce education and reduction programs, di-
25 vorce mediation and counseling, relationship

1 skills enhancement programs, including those
2 designed to reduce child abuse and domestic vi-
3 olence, and dissemination of information about
4 the benefits of marriage for both parents and
5 children.

6 ‘(2) Through the projects and activities de-
7 scribed in paragraph (1), to improve outcomes for
8 children with respect to measures such as increased
9 family income and economic security, improved
10 school performance, better health, improved emo-
11 tional and behavioral stability and social adjustment,
12 and reduced risk of delinquency, crime, substance
13 abuse, child abuse and neglect, teen sexual activity,
14 and teen suicide.

15 ‘(3) To evaluate the effectiveness of various ap-
16 proaches and to disseminate findings concerning out-
17 comes and other information in order to encourage
18 and facilitate the replication of effective approaches
19 to accomplishing these objectives.

20 **‘SEC. 442. DEFINITIONS.**

21 ‘In this part, the terms “Indian tribe” and “tribal
22 organization” have the meanings given them in sub-
23 sections (e) and (l), respectively, of section 4 of the Indian
24 Self-Determination and Education Assistance Act.

1 **‘SEC. 443. COMPETITIVE GRANTS FOR SERVICE PROJECTS.**

2 ‘(a) IN GENERAL.—The Secretary may make grants
3 for fiscal years 2006 through 2010 to public and nonprofit
4 community entities, including religious organizations, and
5 to Indian tribes and tribal organizations, for demonstra-
6 tion service projects and activities designed to test the ef-
7 fectiveness of various approaches to accomplish the objec-
8 tives specified in section 441(b)(1).

9 ‘(b) ELIGIBILITY CRITERIA FOR FULL SERVICE
10 GRANTS.—In order to be eligible for a grant under this
11 section, except as specified in subsection (c), an entity
12 shall submit an application to the Secretary containing the
13 following:

14 ‘(1) PROJECT DESCRIPTION.—A statement in-
15 cluding—

16 ‘(A) a description of the project and how
17 it will be carried out, including the geographical
18 area to be covered and the number and charac-
19 teristics of clients to be served, and how it will
20 address each of the 4 objectives specified in sec-
21 tion 441(b)(1); and

22 ‘(B) a description of the methods to be
23 used by the entity or its contractor to assess
24 the extent to which the project was successful
25 in accomplishing its specific objectives and the
26 general objectives specified in section 441(b)(1).

1 ‘(2) EXPERIENCE AND QUALIFICATIONS.—A
2 demonstration of ability to carry out the project, by
3 means such as demonstration of experience in suc-
4 cessfully carrying out projects of similar design and
5 scope, and such other information as the Secretary
6 may find necessary to demonstrate the entity’s ca-
7 pacity to carry out the project, including the entity’s
8 ability to provide the non-Federal share of project
9 resources.

10 ‘(3) ADDRESSING CHILD ABUSE AND NEGLECT
11 AND DOMESTIC VIOLENCE.—A description of how
12 the entity will assess for the presence of, and inter-
13 vene to resolve, domestic violence and child abuse
14 and neglect, including how the entity will coordinate
15 with State and local child protective service and do-
16 mestic violence programs.

17 ‘(4) ADDRESSING CONCERNS RELATING TO
18 SUBSTANCE ABUSE AND SEXUAL ACTIVITY.—A com-
19 mitment to make available to each individual partici-
20 pating in the project education about alcohol, to-
21 bacco, and other drugs, and about the health risks
22 associated with abusing such substances, and infor-
23 mation about diseases and conditions transmitted
24 through substance abuse and sexual contact, includ-

1 ing HIV/AIDS, and to coordinate with providers of
2 services addressing such problems, as appropriate.

3 ‘(5) COORDINATION WITH SPECIFIED PRO-
4 GRAMS.—An undertaking to coordinate, as appro-
5 priate, with State and local entities responsible for
6 the programs under parts A, B, and D of this title,
7 including programs under title I of the Workforce
8 Investment Act of 1998 (including the One-Stop de-
9 livery system), and such other programs as the Sec-
10 retary may require.

11 ‘(6) RECORDS, REPORTS, AND AUDITS.—An
12 agreement to maintain such records, make such re-
13 ports, and cooperate with such reviews or audits as
14 the Secretary may find necessary for purposes of
15 oversight of project activities and expenditures.

16 ‘(7) SELF-INITIATED EVALUATION.—If the enti-
17 ty elects to contract for independent evaluation of
18 the project (part or all of the cost of which may be
19 paid for using grant funds), a commitment to sub-
20 mit to the Secretary a copy of the evaluation report
21 within 30 days after completion of the report and
22 not more than 1 year after completion of the project.

23 ‘(8) COOPERATION WITH SECRETARY’S OVER-
24 SIGHT AND EVALUATION.—An agreement to cooper-
25 ate with the Secretary’s evaluation of projects as-

1 sisted under this section, by means including ran-
2 dom assignment of clients to service recipient and
3 control groups, if determined by the Secretary to be
4 appropriate, and affording the Secretary access to
5 the project and to project-related records and docu-
6 ments, staff, and clients.

7 ‘(c) ELIGIBILITY CRITERIA FOR LIMITED PURPOSE
8 GRANTS.—In order to be eligible for a grant under this
9 section in an amount under \$25,000 per fiscal year, an
10 entity shall submit an application to the Secretary con-
11 taining the following:

12 ‘(1) PROJECT DESCRIPTION.—A description of
13 the project and how it will be carried out, including
14 the number and characteristics of clients to be
15 served, the proposed duration of the project, and
16 how it will address at least 1 of the 4 objectives
17 specified in section 441(b)(1).

18 ‘(2) QUALIFICATIONS.—Such information as
19 the Secretary may require as to the capacity of the
20 entity to carry out the project, including any pre-
21 vious experience with similar activities.

22 ‘(3) COORDINATION WITH RELATED PRO-
23 GRAMS.—As required by the Secretary in appro-
24 priate cases, an undertaking to coordinate and co-
25 operate with State and local entities responsible for

1 specific programs relating to the objectives of the
2 project including, as appropriate, jobs programs and
3 programs serving children and families.

4 ‘(4) RECORDS, REPORTS, AND AUDITS.—An
5 agreement to maintain such records, make such re-
6 ports, and cooperate with such reviews or audits as
7 the Secretary may find necessary for purposes of
8 oversight of project activities and expenditures.

9 ‘(5) COOPERATION WITH SECRETARY’S OVER-
10 SIGHT AND EVALUATION.—An agreement to cooper-
11 ate with the Secretary’s evaluation of projects as-
12 sisted under this section, by means including afford-
13 ing the Secretary access to the project and to
14 project-related records and documents, staff, and cli-
15 ents.

16 ‘(d) CONSIDERATIONS IN AWARDING GRANTS.—

17 ‘(1) DIVERSITY OF PROJECTS.—In awarding
18 grants under this section, the Secretary shall seek to
19 achieve a balance among entities of differing sizes,
20 entities in differing geographic areas, entities in
21 urban and in rural areas, and entities employing dif-
22 fering methods of achieving the purposes of this sec-
23 tion, including working with the State agency re-
24 sponsible for the administration of part D to help fa-
25 thers satisfy child support arrearage obligations.

1 ‘(2) PREFERENCE FOR PROJECTS SERVING
2 LOW-INCOME FATHERS.—In awarding grants under
3 this section, the Secretary may give preference to
4 applications for projects in which a majority of the
5 clients to be served are low-income fathers.

6 ‘(e) FEDERAL SHARE.—

7 ‘(1) IN GENERAL.—Grants for a project under
8 this section for a fiscal year shall be available for a
9 share of the cost of such project in such fiscal year
10 equal to—

11 ‘(A) up to 80 percent (or up to 90 percent,
12 if the entity demonstrates to the Secretary’s
13 satisfaction circumstances limiting the entity’s
14 ability to secure non-Federal resources) in the
15 case of a project under subsection (b); and

16 ‘(B) up to 100 percent, in the case of a
17 project under subsection (c).

18 ‘(2) NON-FEDERAL SHARE.—The non-Federal
19 share may be in cash or in kind. In determining the
20 amount of the non-Federal share, the Secretary may
21 attribute fair market value to goods, services, and
22 facilities contributed from non-Federal sources.

1 **‘SEC. 444. MULTICITY, MULTISTATE DEMONSTRATION**
2 **PROJECTS.**

3 ‘(a) IN GENERAL.—The Secretary may make grants
4 under this section for fiscal years 2006 through 2010 to
5 eligible entities (as specified in subsection (b)) for 2
6 multicity, multistate projects demonstrating approaches to
7 achieving the objectives specified in section 441(b)(1). One
8 of the projects shall test the use of married couples to
9 deliver program services.

10 ‘(b) ELIGIBLE ENTITIES.—An entity eligible for a
11 grant under this section must be a national nonprofit fa-
12 therhood promotion organization that meets the following
13 requirements:

14 ‘(1) EXPERIENCE WITH FATHERHOOD PRO-
15 GRAMS.—The organization must have substantial ex-
16 perience in designing and successfully conducting
17 programs that meet the purposes described in sec-
18 tion 441.

19 ‘(2) EXPERIENCE WITH MULTICITY,
20 MULTISTATE PROGRAMS AND GOVERNMENT COORDI-
21 NATION.—The organization must have experience in
22 simultaneously conducting such programs in more
23 than 1 major metropolitan area in more than 1
24 State and in coordinating such programs, where ap-
25 propriate, with State and local government agencies
26 and private, nonprofit agencies (including commu-

1 nity-based and religious organizations), including
2 State or local agencies responsible for child support
3 enforcement and workforce development.

4 ‘(c) APPLICATION REQUIREMENTS.—In order to be
5 eligible for a grant under this section, an entity must sub-
6 mit to the Secretary an application that includes the fol-
7 lowing:

8 ‘(1) QUALIFICATIONS.—

9 ‘(A) ELIGIBLE ENTITY.—A demonstration
10 that the entity meets the requirements of sub-
11 section (b).

12 ‘(B) OTHER.—Such other information as
13 the Secretary may find necessary to dem-
14 onstrate the entity’s capacity to carry out the
15 project, including the entity’s ability to provide
16 the non-Federal share of project resources.

17 ‘(2) PROJECT DESCRIPTION.—A description of
18 and commitments concerning the project design, in-
19 cluding the following:

20 ‘(A) IN GENERAL.—A detailed description
21 of the proposed project design and how it will
22 be carried out, which shall—

23 ‘(i) provide for the project to be con-
24 ducted in at least 3 major metropolitan
25 areas;

1 ‘(ii) state how it will address each of
2 the 4 objectives specified in section
3 441(b)(1);

4 ‘(iii) demonstrate that there is a suffi-
5 cient number of potential clients to allow
6 for the random selection of individuals to
7 participate in the project and for compari-
8 sons with appropriate control groups com-
9 posed of individuals who have not partici-
10 pated in such projects; and

11 ‘(iv) demonstrate that the project is
12 designed to direct a majority of project re-
13 sources to activities serving low-income fa-
14 thers (but the project need not make serv-
15 ices available on a means-tested basis).

16 ‘(B) OVERSIGHT, EVALUATION, AND AD-
17 JUSTMENT COMPONENT.—An agreement that
18 the entity—

19 ‘(i) in consultation with the evaluator
20 selected pursuant to section 445, and as
21 required by the Secretary, will modify the
22 project design, initially and (if necessary)
23 subsequently throughout the duration of
24 the project, in order to facilitate ongoing
25 and final oversight and evaluation of

1 project operation and outcomes (by means
2 including, to the maximum extent feasible,
3 random assignment of clients to service re-
4 cipient and control groups), and to provide
5 for mid-course adjustments in project de-
6 sign indicated by interim evaluations;

7 ‘(ii) will submit to the Secretary re-
8 vised descriptions of the project design as
9 modified in accordance with clause (i); and

10 ‘(iii) will cooperate fully with the Sec-
11 retary’s ongoing oversight and ongoing and
12 final evaluation of the project, by means
13 including affording the Secretary access to
14 the project and to project-related records
15 and documents, staff, and clients.

16 ‘(3) ADDRESSING CHILD ABUSE AND NEGLECT
17 AND DOMESTIC VIOLENCE.—A description of how
18 the entity will assess for the presence of, and inter-
19 vene to resolve, domestic violence and child abuse
20 and neglect, including how the entity will coordinate
21 with State and local child protective service and do-
22 mestic violence programs.

23 ‘(4) ADDRESSING CONCERNS RELATING TO
24 SUBSTANCE ABUSE AND SEXUAL ACTIVITY.—A com-
25 mitment to make available to each individual partici-

1 pating in the project education about alcohol, to-
2 bacco, and other drugs, and about the health risks
3 associated with abusing such substances, and infor-
4 mation about diseases and conditions transmitted
5 through substance abuse and sexual contact, includ-
6 ing HIV/AIDS, and to coordinate with providers of
7 services addressing such problems, as appropriate.

8 ‘(5) COORDINATION WITH SPECIFIED PRO-
9 GRAMS.—An undertaking to coordinate, as appro-
10 pate, with State and local entities responsible for
11 the programs funded under parts A, B, and D of
12 this title, programs under title I of the Workforce
13 Investment Act of 1998 (including the One-Stop de-
14 livery system), and such other programs as the Sec-
15 retary may require.

16 ‘(6) RECORDS, REPORTS, AND AUDITS.—An
17 agreement to maintain such records, make such re-
18 ports, and cooperate with such reviews or audits (in
19 addition to those required under the preceding provi-
20 sions of paragraph (2)) as the Secretary may find
21 necessary for purposes of oversight of project activi-
22 ties and expenditures.

23 ‘(d) FEDERAL SHARE.—

24 ‘(1) IN GENERAL.—Grants for a project under
25 this section for a fiscal year shall be available for up

1 to 80 percent of the cost of such project in such fis-
2 cal year.

3 ‘(2) NON-FEDERAL SHARE.—The non-Federal
4 share may be in cash or in kind. In determining the
5 amount of the non-Federal share, the Secretary may
6 attribute fair market value to goods, services, and
7 facilities contributed from non-Federal sources.

8 **‘SEC. 445. EVALUATION.**

9 ‘(a) IN GENERAL.—The Secretary, directly or by con-
10 tract or cooperative agreement, shall evaluate the effec-
11 tiveness of service projects funded under sections 443 and
12 444 from the standpoint of the purposes specified in sec-
13 tion 441(b)(1).

14 ‘(b) EVALUATION METHODOLOGY.—Evaluations
15 under this section shall—

16 ‘(1) include, to the maximum extent feasible,
17 random assignment of clients to service delivery and
18 control groups and other appropriate comparisons of
19 groups of individuals receiving and not receiving
20 services;

21 ‘(2) describe and measure the effectiveness of
22 the projects in achieving their specific project goals;
23 and

24 ‘(3) describe and assess, as appropriate, the im-
25 pact of such projects on marriage, parenting, domes-

1 tic violence, child abuse and neglect, money manage-
2 ment, employment and earnings, payment of child
3 support, and child well-being, health, and education.

4 ‘(c) EVALUATION REPORTS.—The Secretary shall
5 publish the following reports on the results of the evalua-
6 tion:

7 ‘(1) An implementation evaluation report cov-
8 ering the first 24 months of the activities under this
9 part to be completed by 36 months after initiation
10 of such activities.

11 ‘(2) A final report on the evaluation to be com-
12 pleted by September 30, 2013.

13 **‘SEC. 446. PROJECTS OF NATIONAL SIGNIFICANCE.**

14 ‘The Secretary is authorized, by grant, contract, or
15 cooperative agreement, to carry out projects and activities
16 of national significance relating to fatherhood promotion,
17 including—

18 ‘(1) COLLECTION AND DISSEMINATION OF IN-
19 FORMATION.—Assisting States, communities, and
20 private entities, including religious organizations, in
21 efforts to promote and support marriage and respon-
22 sible fatherhood by collecting, evaluating, developing,
23 and making available (through the Internet and by
24 other means) to all interested parties information re-

1 garding approaches to accomplishing the objectives
2 specified in section 441(b)(1).

3 ‘(2) MEDIA CAMPAIGN.—Developing, promoting,
4 and distributing to interested States, local govern-
5 ments, public agencies, and private nonprofit organi-
6 zations, including charitable and religious organiza-
7 tions, a media campaign that promotes and encour-
8 ages involved, committed, and responsible fatherhood
9 and married fatherhood.

10 ‘(3) TECHNICAL ASSISTANCE.—Providing tech-
11 nical assistance, including consultation and training,
12 to public and private entities, including community
13 organizations and faith-based organizations, in the
14 implementation of local fatherhood promotion pro-
15 grams.

16 ‘(4) RESEARCH.—Conducting research related
17 to the purposes of this part.

18 **‘SEC. 447. NONDISCRIMINATION.**

19 ‘The projects and activities assisted under this part
20 shall be available on the same basis to all fathers and ex-
21 pectant fathers able to benefit from such projects and ac-
22 tivities, including married and unmarried fathers and cus-
23 todial and noncustodial fathers, with particular attention
24 to low-income fathers, and to mothers and expectant
25 mothers on the same basis as to fathers.

1 **‘SEC. 448. AUTHORIZATION OF APPROPRIATIONS; RES-**
2 **ERVATION FOR CERTAIN PURPOSE.**

3 ‘(a) AUTHORIZATION.—There are authorized to be
4 appropriated \$20,000,000 for each of fiscal years 2006
5 through 2010 to carry out the provisions of this part.

6 ‘(b) RESERVATION.—Of the amount appropriated
7 under this section for each fiscal year, not more than 15
8 percent shall be available for the costs of the multicounty,
9 multicounty, multistate demonstration projects under sec-
10 tion 444, evaluations under section 445, and projects of
11 national significance under section 446.’.

12 “(b) INAPPLICABILITY OF EFFECTIVE DATE PROVI-
13 SIONS.—Section 116 shall not apply to the amendment
14 made by subsection (a) of this section.”.

15 (2) CLERICAL AMENDMENT.—Section 2 of such
16 Act is amended in the table of contents by inserting
17 after the item relating to section 116 the following
18 new item:

“Sec. 117. Fatherhood program.”.

19 **SEC. 8120. STATE OPTION TO MAKE TANF PROGRAMS MAN-**
20 **DATORY PARTNERS WITH ONE-STOP EMPLOY-**
21 **MENT TRAINING CENTERS.**

22 Section 408 of the Social Security Act (42 U.S.C.
23 608) is amended by adding at the end the following:

24 “(h) STATE OPTION TO MAKE TANF PROGRAMS
25 MANDATORY PARTNERS WITH ONE-STOP EMPLOYMENT

1 TRAINING CENTERS.—For purposes of section 121(b) of
2 the Workforce Investment Act of 1998, a State program
3 funded under part A of title IV of the Social Security Act
4 shall be considered a program referred to in paragraph
5 (1)(B) of such section, unless, after the date of the enact-
6 ment of this subsection, the Governor of the State notifies
7 the Secretaries of Health and Human Services and Labor
8 in writing of the decision of the Governor not to make
9 the State program a mandatory partner.”.

10 **SEC. 8121. SENSE OF THE CONGRESS.**

11 It is the sense of the Congress that a State welfare-
12 to-work program should include a mentoring program.

13 **SEC. 8122. DRUG TESTING OF APPLICANTS FOR AND RE-**
14 **CIPIENTS OF ASSISTANCE.**

15 (a) REQUIREMENT.—Section 408(a) (42 U.S.C.
16 608(a)) is amended by adding at the end the following:

17 “(12) DRUG TESTING REQUIREMENTS.—A
18 State to which a grant is made under section 403(a)
19 for a fiscal year shall—

20 “(A) require an individual who has applied
21 for, or is a recipient of, assistance from the
22 State program funded under this part to under-
23 go a physical test designed to detect the use by
24 the individual of any controlled substance (as
25 defined in section 102(6) of the Controlled Sub-

stances Act) if the State has reason to believe that the person has unlawfully used such a substance recently;

“(B) if a test administered pursuant to this paragraph indicates that an individual has so used such a substance recently, or if the State otherwise determines (on the basis of such indicators as the State may establish) that an individual is likely to have so used such a substance recently—

“(i) ensure that the self-sufficiency plan developed under section 408(b) with respect to the individual addresses the use of the substance;

“(ii) suspend the provision of cash assistance under the program to the family of the individual until a subsequent such test indicates that the individual has not been using the substance; and

“(iii) require, as a condition of providing any benefit under the program to the family of the individual, that the individual comply with the self-sufficiency plan, including the provisions of the plan that address the use of the substance, and

1 undergo additional such tests every 30 or
2 60 days, as the State deems appropriate;
3 and

4 “(C) terminate for 3 years the participa-
5 tion in the program of the family of any indi-
6 vidual who tests positive for such use of such
7 a substance in such number of consecutive tests
8 administered pursuant to this paragraph (which
9 shall be not less than 3 and not more than 6)
10 as the State deems appropriate.”.

11 (b) PENALTY FOR NONCOMPLIANCE.—Section
12 409(a) (42 U.S.C. 609(a)) is amended by adding at the
13 end the following:

14 “(15) PENALTY FOR FAILURE TO COMPLY WITH
15 DRUG TESTING REQUIREMENTS.—If the Secretary
16 determines that a State has not complied with sec-
17 tion 408(a)(12) during a fiscal year, the Secretary
18 shall reduce the grant payable to the State under
19 section 403(a)(1) for the immediately succeeding fis-
20 cal year by an amount equal to not less than 5 per-
21 cent and not more than 10 percent of the State fam-
22 ily assistance grant, as the Secretary deems appro-
23 priate based on the frequency and severity of the
24 noncompliance.”.

Subtitle B—Child Care

SEC. 8201. ENTITLEMENT FUNDING.

Section 418(a)(3) (42 U.S.C. 618(a)(3)) is amended—

(1) by striking “and” at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting a semicolon; and

(3) by adding at the end the following:

“(G) \$2,717,000,000 for fiscal year 2006;

“(H) \$2,767,000,000 for fiscal year 2007;

“(I) \$2,817,000,000 for fiscal year 2008;

“(J) \$2,867,000,000 for fiscal year 2009;

and

“(K) \$2,917,000,000 for fiscal year

2010.”.

Subtitle C—Child Support

SEC. 8301. FEDERAL MATCHING FUNDS FOR LIMITED PASS THROUGH OF CHILD SUPPORT PAYMENTS TO FAMILIES RECEIVING TANF.

(a) IN GENERAL.—Section 457(a) (42 U.S.C. 657(a)) is amended—

(1) in paragraph (1)(A), by inserting “subject to paragraph (7)” before the semicolon; and

(2) by adding at the end the following:

1 “(7) FEDERAL MATCHING FUNDS FOR LIMITED
2 PASS THROUGH OF CHILD SUPPORT PAYMENTS TO
3 FAMILIES RECEIVING TANF.—Notwithstanding para-
4 graph (1), a State shall not be required to pay to
5 the Federal Government the Federal share of an
6 amount collected during a month on behalf of a fam-
7 ily that is a recipient of assistance under the State
8 program funded under part A, to the extent that—

9 “(A) the State distributes the amount to
10 the family;

11 “(B) the total of the amounts so distrib-
12 uted to the family during the month—

13 “(i) exceeds the amount (if any) that,
14 as of December 31, 2001, was required
15 under State law to be distributed to a fam-
16 ily under paragraph (1)(B); and

17 “(ii) does not exceed the greater of—

18 “(I) \$100; or

19 “(II) \$50 plus the amount de-
20 scribed in clause (i); and

21 “(C) the amount is disregarded in deter-
22 mining the amount and type of assistance pro-
23 vided to the family under the State program
24 funded under part A.”.

1 (b) APPLICABILITY.—The amendments made by sub-
2 section (a) shall apply to amounts distributed on or after
3 October 1, 2008.

4 **SEC. 8302. STATE OPTION TO PASS THROUGH ALL CHILD**
5 **SUPPORT PAYMENTS TO FAMILIES THAT**
6 **FORMERLY RECEIVED TANF.**

7 (a) IN GENERAL.—Section 457(a) (42 U.S.C.
8 657(a)), as amended by section 8301(a) of this Act, is
9 amended—

10 (1) in paragraph (2)(B), in the matter pre-
11 ceding clause (i), by inserting “, except as provided
12 in paragraph (8),” after “shall”; and

13 (2) by adding at the end the following:

14 “(8) STATE OPTION TO PASS THROUGH ALL
15 CHILD SUPPORT PAYMENTS TO FAMILIES THAT FOR-
16 MERLY RECEIVED TANF.—In lieu of applying para-
17 graph (2) to any family described in paragraph (2),
18 a State may distribute to the family any amount col-
19 lected during a month on behalf of the family.”.

20 (b) APPLICABILITY.—The amendments made by sub-
21 section (a) shall apply to amounts distributed on or after
22 October 1, 2008.

1 **SEC. 8303. MANDATORY REVIEW AND ADJUSTMENT OF**
2 **CHILD SUPPORT ORDERS FOR FAMILIES RE-**
3 **CEIVING TANF.**

4 (a) IN GENERAL.—Section 466(a)(10)(A)(i) (42
5 U.S.C. 666(a)(10)(A)(i)) is amended—

6 (1) by striking “parent, or,” and inserting
7 “parent or”; and

8 (2) by striking “upon the request of the State
9 agency under the State plan or of either parent,”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 subsection (a) shall take effect on October 1, 2007.

12 **SEC. 8304. MANDATORY FEE FOR SUCCESSFUL CHILD SUP-**
13 **PORT COLLECTION FOR FAMILY THAT HAS**
14 **NEVER RECEIVED TANF.**

15 (a) IN GENERAL.—Section 454(6)(B) (42 U.S.C.
16 654(6)(B)) is amended—

17 (1) by inserting “(i)” after “(B)”;

18 (2) by redesignating clauses (i) and (ii) as sub-
19 clauses (I) and (II), respectively;

20 (3) by adding “and” after the semicolon; and

21 (4) by adding after and below the end the fol-
22 lowing new clause:

23 “(ii) in the case of an individual who has
24 never received assistance under a State pro-
25 gram funded under part A and for whom the
26 State has collected at least \$500 of support, the

1 State shall impose an annual fee of \$25 for
 2 each case in which services are furnished, which
 3 shall be retained by the State from support col-
 4 lected on behalf of the individual (but not from
 5 the 1st \$500 so collected), paid by the indi-
 6 vidual applying for the services, recovered from
 7 the absent parent, or paid by the State out of
 8 its own funds (the payment of which from State
 9 funds shall not be considered as an administra-
 10 tive cost of the State for the operation of the
 11 plan, and such fees shall be considered income
 12 to the program);”.

13 (b) CONFORMING AMENDMENT.—Section 457(a)(3)
 14 (42 U.S.C. 657(a)(3)) is amended to read as follows:

15 “(3) FAMILIES THAT NEVER RECEIVED ASSIST-
 16 ANCE.—In the case of any other family, the State
 17 shall distribute to the family the portion of the
 18 amount so collected that remains after withholding
 19 any fee pursuant to section 454(6)(B)(ii).”.

20 (c) EFFECTIVE DATE.—The amendments made by
 21 this section shall take effect on October 1, 2006.

22 **SEC. 8305. REPORT ON UNDISTRIBUTED CHILD SUPPORT**
 23 **PAYMENTS.**

24 Not later than 6 months after the date of the enact-
 25 ment of this Act, the Secretary of Health and Human

1 Services shall submit to the Committee on Ways and
2 Means of the House of Representatives and the Committee
3 on Finance of the Senate a report on the procedures that
4 the States use generally to locate custodial parents for
5 whom child support has been collected but not yet distrib-
6 uted. The report shall include an estimate of the total
7 amount of undistributed child support and the average
8 length of time it takes undistributed child support to be
9 distributed. To the extent the Secretary deems appro-
10 priate, the Secretary shall include in the report rec-
11 ommendations as to whether additional procedures should
12 be established at the State or Federal level to expedite
13 the payment of undistributed child support.

14 **SEC. 8306. DECREASE IN AMOUNT OF CHILD SUPPORT AR-**
15 **REARAGE TRIGGERING PASSPORT DENIAL.**

16 (a) IN GENERAL.—Section 452(k)(1) (42 U.S.C.
17 652(k)(1)) is amended by striking “\$5,000” and inserting
18 “\$2,500”.

19 (b) CONFORMING AMENDMENT.—Section 454(31)
20 (42 U.S.C. 654(31)) is amended by striking “\$5,000” and
21 inserting “\$2,500”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on October 1, 2006.

1 **SEC. 8307. USE OF TAX REFUND INTERCEPT PROGRAM TO**
2 **COLLECT PAST-DUE CHILD SUPPORT ON BE-**
3 **HALF OF CHILDREN WHO ARE NOT MINORS.**

4 (a) IN GENERAL.—Section 464 (42 U.S.C. 664) is
5 amended—

6 (1) in subsection (a)(2)(A), by striking “(as
7 that term is defined for purposes of this paragraph
8 under subsection (c))”; and

9 (2) in subsection (c)—

10 (A) in paragraph (1)—

11 (i) by striking “(1) Except as pro-
12 vided in paragraph (2), as used in” and in-
13 serting “In”; and

14 (ii) by inserting “(whether or not a
15 minor)” after “a child” each place it ap-
16 pears; and

17 (B) by striking paragraphs (2) and (3).

18 (b) EFFECTIVE DATE.—The amendments made by
19 subsection (a) shall take effect on October 1, 2007.

20 **SEC. 8308. GARNISHMENT OF COMPENSATION PAID TO VET-**
21 **ERANS FOR SERVICE-CONNECTED DISABIL-**
22 **ITIES IN ORDER TO ENFORCE CHILD SUP-**
23 **PORT OBLIGATIONS.**

24 (a) IN GENERAL.—Section 459(h) (42 U.S.C.
25 659(h)) is amended—

1 (1) in paragraph (1)(A)(ii)(V), by striking all
2 that follows “Armed Forces” and inserting a semi-
3 colon; and

4 (2) by adding at the end the following:

5 “(3) LIMITATIONS WITH RESPECT TO COM-
6 PENSATION PAID TO VETERANS FOR SERVICE-CON-
7 NECTED DISABILITIES.—Notwithstanding any other
8 provision of this section:

9 “(A) Compensation described in paragraph
10 (1)(A)(ii)(V) shall not be subject to withholding
11 pursuant to this section—

12 “(i) for payment of alimony; or

13 “(ii) for payment of child support if
14 the individual is fewer than 60 days in ar-
15 rears in payment of the support.

16 “(B) Not more than 50 percent of any
17 payment of compensation described in para-
18 graph (1)(A)(ii)(V) may be withheld pursuant
19 to this section.”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 subsection (a) shall take effect on October 1, 2007.

22 **SEC. 8309. MAINTENANCE OF TECHNICAL ASSISTANCE**
23 **FUNDING.**

24 Section 452(j) (42 U.S.C. 652(j)) is amended by in-
25 serting “or the amount appropriated under this paragraph

1 for fiscal year 2002, whichever is greater,” before “which
2 shall be available”.

3 **SEC. 8310. MAINTENANCE OF FEDERAL PARENT LOCATOR**
4 **SERVICE FUNDING.**

5 Section 453(o) (42 U.S.C. 653(o)) is amended—

6 (1) in the 1st sentence, by inserting “or the
7 amount appropriated under this paragraph for fiscal
8 year 2002, whichever is greater,” before “which
9 shall be available”; and

10 (2) in the 2nd sentence, by striking “for each
11 of fiscal years 1997 through 2001”.

12 **SEC. 8311. INFORMATION COMPARISONS WITH INSURANCE**
13 **DATA.**

14 (a) DUTIES OF THE SECRETARY.—Section 452 (42
15 U.S.C. 652) is amended by adding at the end the fol-
16 lowing:

17 “(m) COMPARISONS WITH INSURANCE INFORMA-
18 TION.—

19 “(1) IN GENERAL.—The Secretary, through the
20 Federal Parent Locator Service, may—

21 “(A) compare information concerning indi-
22 viduals owing past-due support with informa-
23 tion maintained by insurers (or their agents)
24 concerning insurance claims, settlements,
25 awards, and payments, and

1 **SEC. 8314. TECHNICAL AMENDMENT RELATING TO COOP-**
2 **ERATIVE AGREEMENTS BETWEEN STATES**
3 **AND INDIAN TRIBES.**

4 Section 454(33) (42 U.S.C. 654(33)) is amended by
5 striking “that receives funding pursuant to section 428
6 and”.

7 **SEC. 8315. STATE OPTION TO USE STATEWIDE AUTOMATED**
8 **DATA PROCESSING AND INFORMATION RE-**
9 **TRIEVAL SYSTEM FOR INTERSTATE CASES.**

10 Section 466(a)(14)(A)(iii) (42 U.S.C.
11 666(a)(14)(A)(iii)) is amended by inserting “(but the as-
12 sisting State may establish a corresponding case based on
13 such other State’s request for assistance)” before the
14 semicolon.

15 **SEC. 8316. MODIFICATION OF RULE REQUIRING ASSIGN-**
16 **MENT OF SUPPORT RIGHTS AS A CONDITION**
17 **OF RECEIVING TANF.**

18 (a) IN GENERAL.—Section 408(a)(3) (42 U.S.C.
19 608(a)(3)) is amended to read as follows:

20 “(3) NO ASSISTANCE FOR FAMILIES NOT AS-
21 SIGNING CERTAIN SUPPORT RIGHTS TO THE
22 STATE.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graph (B), a State to which a grant is made
25 under section 403 shall require, as a condition
26 of providing assistance to a family under the

1 State program funded under this part, that a
2 member of the family assign to the State any
3 rights the family member may have (on behalf
4 of the family member or of any other person for
5 whom the family member has applied for or is
6 receiving such assistance) to—

7 “(i) support from any other person
8 which accrues during the period that the
9 family receives assistance under the pro-
10 gram; and

11 “(ii) at the option of the State, sup-
12 port from any other person which has ac-
13 crued before such period.

14 “(B) LIMITATION.—The total amount of
15 support that may be required to be provided
16 with respect to rights assigned to a State by a
17 family member pursuant to subparagraph (A)
18 shall not exceed the total amount of assistance
19 provided by the State to the family.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall take effect on October 1, 2008.

22 **SEC. 8317. STATE OPTION TO DISCONTINUE CERTAIN SUP-**
23 **PORT ASSIGNMENTS.**

24 Section 457(b) (42 U.S.C. 657(b)) is amended by
25 striking “shall” and inserting “may”.

1 **SEC. 8318. TECHNICAL CORRECTION.**

2 The second paragraph (7) of section 453(j) (42
3 U.S.C. 653(j)) is amended by striking “(7)” and inserting
4 “(9)”.

5 **SEC. 8319. REDUCTION IN RATE OF REIMBURSEMENT OF**
6 **CHILD SUPPORT ADMINISTRATIVE EX-**
7 **PENSES.**

8 Section 455(a)(2) (42 U.S.C. 655(a)(2)) is amend-
9 ed—

10 (1) in subparagraph (B), by striking “, and”
11 and inserting a semicolon;

12 (2) in subparagraph (C), by striking “fiscal
13 year 1990 and each fiscal year thereafter.” and in-
14 serting “fiscal years 1990 through 2006;” and

15 (3) by adding at the end the following:

16 “(D) 62 percent for fiscal year 2007;

17 “(E) 58 percent for fiscal year 2008;

18 “(F) 54 percent for fiscal year 2009; and

19 “(G) 50 percent for fiscal year 2010 and each
20 fiscal year thereafter.”.

21 **SEC. 8320. INCENTIVE PAYMENTS.**

22 (a) IN GENERAL.—Section 455(a)(1) (42 U.S.C.
23 655(a)(1)) is amended by inserting “from amounts paid
24 to the State under section 458 or” before “to carry out
25 an agreement”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall take effect on October 1, 2007.

3 **Subtitle D—Child Welfare**

4 **SEC. 8401. EXTENSION OF AUTHORITY TO APPROVE DEM-**
5 **ONSTRATION PROJECTS.**

6 Section 1130(a)(2) (42 U.S.C. 1320a–9(a)(2)) is
7 amended by striking “2003” and inserting “2010”.

8 **SEC. 8402. ELIMINATION OF LIMITATION ON NUMBER OF**
9 **WAIVERS.**

10 Section 1130(a)(2) (42 U.S.C. 1320a–9(a)(2)) is
11 amended by striking “not more than 10”.

12 **SEC. 8403. ELIMINATION OF LIMITATION ON NUMBER OF**
13 **STATES THAT MAY BE GRANTED WAIVERS TO**
14 **CONDUCT DEMONSTRATION PROJECTS ON**
15 **SAME TOPIC.**

16 Section 1130 (42 U.S.C. 1320a–9) is amended by
17 adding at the end the following:

18 “(h) NO LIMIT ON NUMBER OF STATES THAT MAY
19 BE GRANTED WAIVERS TO CONDUCT SAME OR SIMILAR
20 DEMONSTRATION PROJECTS.—The Secretary shall not
21 refuse to grant a waiver to a State under this section on
22 the grounds that a purpose of the waiver or of the dem-
23 onstration project for which the waiver is necessary would
24 be the same as or similar to a purpose of another waiver

1 or project that is or may be conducted under this sec-
2 tion.”.

3 **SEC. 8404. ELIMINATION OF LIMITATION ON NUMBER OF**
4 **WAIVERS THAT MAY BE GRANTED TO A SIN-**
5 **GLE STATE FOR DEMONSTRATION PROJECTS.**

6 Section 1130 (42 U.S.C. 1320a–9) is further amend-
7 ed by adding at the end the following:

8 “(i) NO LIMIT ON NUMBER OF WAIVERS GRANTED
9 TO, OR DEMONSTRATION PROJECTS THAT MAY BE CON-
10 DUCTED BY, A SINGLE STATE.—The Secretary shall not
11 impose any limit on the number of waivers that may be
12 granted to a State, or the number of demonstration
13 projects that a State may be authorized to conduct, under
14 this section.”.

15 **SEC. 8405. STREAMLINED PROCESS FOR CONSIDERATION**
16 **OF AMENDMENTS TO AND EXTENSIONS OF**
17 **DEMONSTRATION PROJECTS REQUIRING**
18 **WAIVERS.**

19 Section 1130 (42 U.S.C. 1320a–9) is further amend-
20 ed by adding at the end the following:

21 “(j) STREAMLINED PROCESS FOR CONSIDERATION
22 OF AMENDMENTS AND EXTENSIONS.—The Secretary
23 shall develop a streamlined process for consideration of
24 amendments and extensions proposed by States to dem-
25 onstration projects conducted under this section.”.

1 **SEC. 8406. AVAILABILITY OF REPORTS.**

2 Section 1130 (42 U.S.C. 1320a–9) is further amend-
3 ed by adding at the end the following:

4 “(k) AVAILABILITY OF REPORTS.—The Secretary
5 shall make available to any State or other interested party
6 any report provided to the Secretary under subsection
7 (f)(2), and any evaluation or report made by the Secretary
8 with respect to a demonstration project conducted under
9 this section, with a focus on information that may promote
10 best practices and program improvements.”.

11 **SEC. 8407. CLARIFICATION OF ELIGIBILITY FOR FOSTER**
12 **CARE MAINTENANCE PAYMENTS AND ADOP-**
13 **TION ASSISTANCE.**

14 (a) FOSTER CARE MAINTENANCE PAYMENTS.—Sec-
15 tion 472(a) (42 U.S.C. 672(a)) is amended to read as fol-
16 lows:

17 “(a) IN GENERAL.—

18 “(1) ELIGIBILITY.—Each State with a plan ap-
19 proved under this part shall make foster care main-
20 tenance payments on behalf of each child who has
21 been removed from the home of a relative specified
22 in section 406(a) (as in effect on July 16, 1996)
23 into foster care if—

24 “(A) the removal and foster care place-
25 ment met, and the placement continues to meet,
26 the requirements of paragraph (2); and

1 “(B) the child, while in the home, would
2 have met the AFDC eligibility requirement of
3 paragraph (3).

4 “(2) REMOVAL AND FOSTER CARE PLACEMENT
5 REQUIREMENTS.—The removal and foster care
6 placement of a child meet the requirements of this
7 paragraph if—

8 “(A) the removal and foster care place-
9 ment are in accordance with—

10 “(i) a voluntary placement agreement
11 entered into by a parent or legal guardian
12 of the child who is the relative referred to
13 in paragraph (1); or

14 “(ii) a judicial determination to the
15 effect that continuation in the home from
16 which removed would be contrary to the
17 welfare of the child and that reasonable ef-
18 forts of the type described in section
19 471(a)(15) for a child have been made;

20 “(B) the child’s placement and care are
21 the responsibility of—

22 “(i) the State agency administering
23 the State plan approved under section 471;
24 or

1 “(ii) any other public agency with
2 which the State agency administering or
3 supervising the administration of the State
4 plan has made an agreement which is in
5 effect; and

6 “(C) the child has been placed in a foster
7 family home or child-care institution.

8 “(3) AFDC ELIGIBILITY REQUIREMENT.—

9 “(A) IN GENERAL.—A child in the home
10 referred to in paragraph (1) would have met
11 the AFDC eligibility requirement of this para-
12 graph if the child—

13 “(i) would have received aid under the
14 State plan approved under section 402 (as
15 in effect on July 16, 1996) in the home, in
16 or for the month in which the agreement
17 was entered into or court proceedings lead-
18 ing to the determination referred to in
19 paragraph (2)(A)(ii) of this subsection
20 were initiated; or

21 “(ii)(I) would have received the aid in
22 the home, in or for the month referred to
23 in clause (i), if application had been made
24 therefor; or

1 “(II) had been living in the home
2 within 6 months before the month in which
3 the agreement was entered into or the pro-
4 ceedings were initiated, and would have re-
5 ceived the aid in or for such month, if, in
6 such month, the child had been living in
7 the home with the relative referred to in
8 paragraph (1) and application for the aid
9 had been made.

10 “(B) RESOURCES DETERMINATION.—For
11 purposes of subparagraph (A), in determining
12 whether a child would have received aid under
13 a State plan approved under section 402 (as in
14 effect on July 16, 1996), a child whose re-
15 sources (determined pursuant to section
16 402(a)(7)(B), as so in effect) have a combined
17 value of not more than \$10,000 shall be consid-
18 ered a child whose resources have a combined
19 value of not more than \$1,000 (or such lower
20 amount as the State may determine for pur-
21 poses of section 402(a)(7)(B)).

22 “(4) ELIGIBILITY OF CERTAIN ALIEN CHIL-
23 DREN.—Subject to title IV of the Personal Responsi-
24 bility and Work Opportunity Reconciliation Act of
25 1996, if the child is an alien disqualified under sec-

1 tion 245A(h) or 210(f) of the Immigration and Na-
2 tionality Act from receiving aid under the State plan
3 approved under section 402 in or for the month in
4 which the agreement described in paragraph
5 (2)(A)(i) was entered into or court proceedings lead-
6 ing to the determination described in paragraph
7 (2)(A)(ii) were initiated, the child shall be consid-
8 ered to satisfy the requirements of paragraph (3),
9 with respect to the month, if the child would have
10 satisfied the requirements but for the disqualifica-
11 tion.”.

12 (b) ADOPTION ASSISTANCE.—Section 473(a)(2) (42
13 U.S.C. 673(a)(2)) is amended to read as follows:

14 “(2)(A) For purposes of paragraph (1)(B)(ii), a child
15 meets the requirements of this paragraph if the child—

16 “(i)(I)(aa) was removed from the home of a rel-
17 ative specified in section 406(a) (as in effect on July
18 16, 1996) and placed in foster care in accordance
19 with a voluntary placement agreement with respect
20 to which Federal payments are provided under sec-
21 tion 474 (or section 403, as such section was in ef-
22 fect on July 16, 1996), or in accordance with a judi-
23 cial determination to the effect that continuation in
24 the home would be contrary to the welfare of the
25 child; and

1 “(bb) met the requirements of section 472(a)(3)
2 with respect to the home referred to in item (aa) of
3 this subclause;

4 “(II) meets all of the requirements of title XVI
5 with respect to eligibility for supplemental security
6 income benefits; or

7 “(III) is a child whose costs in a foster family
8 home or child-care institution are covered by the fos-
9 ter care maintenance payments being made with re-
10 spect to the minor parent of the child as provided
11 in section 475(4)(B); and

12 “(ii) has been determined by the State, pursu-
13 ant to subsection (c) of this section, to be a child
14 with special needs.

15 “(B) Section 472(a)(4) shall apply for purposes of
16 subparagraph (A) of this paragraph, in any case in which
17 the child is an alien described in such section.

18 “(C) A child shall be treated as meeting the require-
19 ments of this paragraph for the purpose of paragraph
20 (1)(B)(ii) if the child—

21 “(i) meets the requirements of subparagraph
22 (A)(ii);

23 “(ii) was determined eligible for adoption assist-
24 ance payments under this part with respect to a
25 prior adoption;

1 “(iii) is available for adoption because—

2 “(I) the prior adoption has been dissolved,
3 and the parental rights of the adoptive parents
4 have been terminated; or

5 “(II) the child’s adoptive parents have
6 died; and

7 “(iv) fails to meet the requirements of subpara-
8 graph (A) but would meet such requirements if—

9 “(I) the child were treated as if the child
10 were in the same financial and other cir-
11 cumstances the child was in the last time the
12 child was determined eligible for adoption as-
13 sistance payments under this part; and

14 “(II) the prior adoption were treated as
15 never having occurred.”.

16 **SEC. 8408. CLARIFICATION REGARDING FEDERAL MATCH-**
17 **ING OF CERTAIN ADMINISTRATIVE COSTS**
18 **UNDER THE FOSTER CARE MAINTENANCE**
19 **PAYMENTS PROGRAM.**

20 (a) ADMINISTRATIVE COSTS RELATING TO UNLI-
21 CENSED CARE.—Section 472 (42 U.S.C. 672) is amended
22 by inserting after subsection (h) the following:

23 “(i) ADMINISTRATIVE COSTS ASSOCIATED WITH
24 OTHERWISE ELIGIBLE CHILDREN NOT IN LICENSED FOS-
25 TER CARE SETTINGS.—Expenditures by a State that

1 would be considered administrative expenditures for pur-
2 poses of section 474(a)(3) if made with respect to a child
3 who was residing in a foster family home or child-care in-
4 stitution shall be so considered with respect to a child not
5 residing in such a home or institution—

6 “(1) in the case of a child who has been re-
7 moved in accordance with subsection (a) of this sec-
8 tion from the home of a relative specified in section
9 406(a) (as in effect on July 16, 1996), only for ex-
10 penditures—

11 “(A) with respect to a period of not more
12 than the lesser of 12 months or the average
13 length of time it takes for the State to license
14 or approve a home as a foster home, in which
15 the child is in the home of a relative and an ap-
16 plication is pending for licensing or approval of
17 the home as a foster family home; or

18 “(B) with respect to a period of not more
19 than 1 calendar month when a child moves
20 from a facility not eligible for payments under
21 this part into a foster family home or child care
22 institution licensed or approved by the State;
23 and

24 “(2) in the case of any other child who is poten-
25 tially eligible for benefits under a State plan ap-

1 proved under this part and at imminent risk of re-
2 moval from the home, only if—

3 “(A) reasonable efforts are being made in
4 accordance with section 471(a)(15) to prevent
5 the need for, or if necessary to pursue, removal
6 of the child from the home; and

7 “(B) the State agency has made, not less
8 often than every 6 months, a determination (or
9 redetermination) as to whether the child re-
10 mains at imminent risk of removal from the
11 home.”.

12 (b) CONFORMING AMENDMENT.—Section 474(a)(3)
13 of such Act (42 U.S.C. 674(a)(3)) is amended by inserting
14 “subject to section 472(i)” before “an amount equal to”.

15 **SEC. 8409. TECHNICAL CORRECTION.**

16 Section 1130(b)(1) (42 U.S.C. 1320a–9(b)(1)) is
17 amended by striking “422(b)(9)” and inserting
18 “422(b)(10)”.

19 **SEC. 8410. TECHNICAL CORRECTION.**

20 Section 470 (42 U.S.C. 670) is amended by striking
21 “June 1, 1995” and inserting “July 16, 1996”.

1 **Subtitle E—Supplemental Security**
2 **Income**

3 **SEC. 8501. REVIEW OF STATE AGENCY BLINDNESS AND DIS-**
4 **ABILITY DETERMINATIONS.**

5 Section 1633 (42 U.S.C. 1383b) is amended by add-
6 ing at the end the following:

7 “(e)(1) The Commissioner of Social Security shall re-
8 view determinations, made by State agencies pursuant to
9 subsection (a) in connection with applications for benefits
10 under this title on the basis of blindness or disability, that
11 individuals who have attained 18 years of age are blind
12 or disabled as of a specified onset date. The Commissioner
13 of Social Security shall review such a determination before
14 any action is taken to implement the determination.

15 “(2)(A) In carrying out paragraph (1), the Commis-
16 sioner of Social Security shall review—

17 “(i) at least 20 percent of all determinations re-
18 ferred to in paragraph (1) that are made in fiscal
19 year 2006;

20 “(ii) at least 40 percent of all such determina-
21 tions that are made in fiscal year 2007; and

22 “(iii) at least 50 percent of all such determina-
23 tions that are made in fiscal year 2008 or thereafter.

24 “(B) In carrying out subparagraph (A), the Commis-
25 sioner of Social Security shall, to the extent feasible, select

1 for review the determinations which the Commissioner of
2 Social Security identifies as being the most likely to be
3 incorrect.”.

4 **SEC. 8502. PAYMENT OF CERTAIN LUMP SUM BENEFITS IN**
5 **INSTALLMENTS UNDER THE SUPPLEMENTAL**
6 **SECURITY INCOME PROGRAM.**

7 (a) IN GENERAL.—Section 1631(a)(10)(A)(i) (42
8 U.S.C. 1383(a)(10)(A)(i)) is amended by striking “12”
9 and inserting “3”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall take effect 3 months after the date
12 of the enactment of this Act.

13 **Subtitle F—State and Local**
14 **Flexibility**

15 **SEC. 8601. PROGRAM COORDINATION DEMONSTRATION**
16 **PROJECTS.**

17 (a) PURPOSE.—The purpose of this section is to es-
18 tablish a program of demonstration projects in a State or
19 portion of a State to coordinate multiple public assistance,
20 workforce development, and other programs, for the pur-
21 pose of supporting working individuals and families, help-
22 ing families escape welfare dependency, promoting child
23 well-being, or helping build stronger families, using inno-
24 vative approaches to strengthen service systems and pro-
25 vide more coordinated and effective service delivery.

1 (b) DEFINITIONS.—In this section:

2 (1) ADMINISTERING SECRETARY.—The term
3 “administering Secretary” means, with respect to a
4 qualified program, the head of the Federal agency
5 responsible for administering the program.

6 (2) QUALIFIED PROGRAM.—The term “qualified
7 program” means—

8 (A) a program under part A of title IV of
9 the Social Security Act; or

10 (B) the program under title XX of such
11 Act.

12 (c) APPLICATION REQUIREMENTS.—The head of a
13 State entity or of a sub-State entity administering 2 or
14 more qualified programs proposed to be included in a dem-
15 onstration project under this section shall (or, if the
16 project is proposed to include qualified programs adminis-
17 tered by 2 or more such entities, the heads of the admin-
18 istering entities (each of whom shall be considered an ap-
19 plicant for purposes of this section) shall jointly) submit
20 to the administering Secretary of each such program an
21 application that contains the following:

22 (1) PROGRAMS INCLUDED.—A statement identi-
23 fying each qualified program to be included in the
24 project, and describing how the purposes of each
25 such program will be achieved by the project.

1 (2) POPULATION SERVED.—A statement identi-
2 fying the population to be served by the project and
3 specifying the eligibility criteria to be used.

4 (3) DESCRIPTION AND JUSTIFICATION.—A de-
5 tailed description of the project, including—

6 (A) a description of how the project is ex-
7 pected to improve or enhance achievement of
8 the purposes of the programs to be included in
9 the project, from the standpoint of quality, of
10 cost-effectiveness, or of both; and

11 (B) a description of the performance objec-
12 tives for the project, including any proposed
13 modifications to the performance measures and
14 reporting requirements used in the programs.

15 (4) WAIVERS REQUESTED.—A description of
16 the statutory and regulatory requirements with re-
17 spect to which a waiver is requested in order to
18 carry out the project, and a justification of the need
19 for each such waiver.

20 (5) COST NEUTRALITY.—Such information and
21 assurances as necessary to establish to the satisfac-
22 tion of the administering Secretary, in consultation
23 with the Director of the Office of Management and
24 Budget, that the proposed project is reasonably ex-

1 pected to meet the applicable cost neutrality require-
2 ments of subsection (d)(4).

3 (6) EVALUATION AND REPORTS.—An assurance
4 that the applicant will conduct ongoing and final
5 evaluations of the project, and make interim and
6 final reports to the administering Secretary, at such
7 times and in such manner as the administering Sec-
8 retary may require.

9 (7) OTHER INFORMATION AND ASSURANCES.—
10 Such other information and assurances as the ad-
11 ministering Secretary may require.

12 (d) APPROVAL OF APPLICATIONS.—

13 (1) IN GENERAL.—The administering Secretary
14 with respect to a qualified program that is identified
15 in an application submitted pursuant to subsection
16 (c) may approve the application and, except as pro-
17 vided in paragraph (2), waive any requirement appli-
18 cable to the program, to the extent consistent with
19 this section and necessary and appropriate for the
20 conduct of the demonstration project proposed in the
21 application, if the administering Secretary deter-
22 mines that the project—

23 (A) has a reasonable likelihood of achieving
24 the objectives of the programs to be included in
25 the project;

1 (B) may reasonably be expected to meet
 2 the applicable cost neutrality requirements of
 3 paragraph (4), as determined by the Director of
 4 the Office of Management and Budget; and

5 (C) includes the coordination of 2 or more
 6 qualified programs.

7 (2) PROVISIONS EXCLUDED FROM WAIVER AU-
 8 THORITY.—A waiver shall not be granted under
 9 paragraph (1) with respect to any provision of law
 10 relating to—

11 (A) civil rights or prohibition of discrimi-
 12 nation;

13 (B) purposes or goals of any program;

14 (C) maintenance of effort requirements;

15 (D) health or safety;

16 (E) labor standards under the Fair Labor
 17 Standards Act of 1938; or

18 (F) environmental protection;

19 (3) AGREEMENT OF EACH ADMINISTERING SEC-
 20 RETARY REQUIRED.—

21 (A) IN GENERAL.—An applicant may not
 22 conduct a demonstration project under this sec-
 23 tion unless each administering Secretary with
 24 respect to any program proposed to be included

1 in the project has approved the application to
2 conduct the project.

3 (B) AGREEMENT WITH RESPECT TO FUND-
4 ING AND IMPLEMENTATION.—Before approving
5 an application to conduct a demonstration
6 project under this section, an administering
7 Secretary shall have in place an agreement with
8 the applicant with respect to the payment of
9 funds and responsibilities required of the ad-
10 ministering Secretary with respect to the
11 project.

12 (4) COST-NEUTRALITY REQUIREMENT.—

13 (A) GENERAL RULE.—Notwithstanding
14 any other provision of law (except subparagraph
15 (B)), the total of the amounts that may be paid
16 by the Federal Government for a fiscal year
17 with respect to the programs in the State in
18 which an entity conducting a demonstration
19 project under this section is located that are af-
20 fected by the project shall not exceed the esti-
21 mated total amount that the Federal Govern-
22 ment would have paid for the fiscal year with
23 respect to the programs if the project had not
24 been conducted, as determined by the Director
25 of the Office of Management and Budget.

1 (B) SPECIAL RULE.—If an applicant sub-
2 mits to the Director of the Office of Manage-
3 ment and Budget a request to apply the rules
4 of this subparagraph to the programs in the
5 State in which the applicant is located that are
6 affected by a demonstration project proposed in
7 an application submitted by the applicant pur-
8 suant to this section, during such period of not
9 more than 5 consecutive fiscal years in which
10 the project is in effect, and the Director deter-
11 mines, on the basis of supporting information
12 provided by the applicant, to grant the request,
13 then, notwithstanding any other provision of
14 law, the total of the amounts that may be paid
15 by the Federal Government for the period with
16 respect to the programs shall not exceed the es-
17 timated total amount that the Federal Govern-
18 ment would have paid for the period with re-
19 spect to the programs if the project had not
20 been conducted.

21 (5) 90-DAY APPROVAL DEADLINE.—

22 (A) IN GENERAL.—If an administering
23 Secretary receives an application to conduct a
24 demonstration project under this section and

1 does not disapprove the application within 90
2 days after the receipt, then—

3 (i) the administering Secretary is
4 deemed to have approved the application
5 for such period as is requested in the ap-
6 plication, except to the extent inconsistent
7 with subsection (e); and

8 (ii) any waiver requested in the appli-
9 cation which applies to a qualified program
10 that is identified in the application and is
11 administered by the administering Sec-
12 retary is deemed to be granted, except to
13 the extent inconsistent with paragraph (2)
14 or (4) of this subsection.

15 (B) DEADLINE EXTENDED IF ADDITIONAL
16 INFORMATION IS SOUGHT.—The 90-day period
17 referred to in subparagraph (A) shall not in-
18 clude any period that begins with the date the
19 Secretary requests the applicant to provide ad-
20 ditional information with respect to the applica-
21 tion and ends with the date the additional in-
22 formation is provided.

23 (e) DURATION OF PROJECTS.—A demonstration
24 project under this section may be approved for a term of
25 not more than 5 years.

1 (f) REPORTS TO CONGRESS.—

2 (1) REPORT ON DISPOSITION OF APPLICA-
3 TIONS.—Within 90 days after an administering Sec-
4 retary receives an application submitted pursuant to
5 this section, the administering Secretary shall sub-
6 mit to each Committee of the Congress which has
7 jurisdiction over a qualified program identified in
8 the application notice of the receipt, a description of
9 the decision of the administering Secretary with re-
10 spect to the application, and the reasons for approv-
11 ing or disapproving the application.

12 (2) REPORTS ON PROJECTS.—Each admin-
13 istering Secretary shall provide annually to the Con-
14 gress a report concerning demonstration projects ap-
15 proved under this section, including—

16 (A) the projects approved for each appli-
17 cant;

18 (B) the number of waivers granted under
19 this section, and the specific statutory provi-
20 sions waived;

21 (C) how well each project for which a waiv-
22 er is granted is improving or enhancing pro-
23 gram achievement from the standpoint of qual-
24 ity, cost-effectiveness, or both;

1 (D) how well each project for which a
 2 waiver is granted is meeting the performance
 3 objectives specified in subsection (c)(3)(B);

4 (E) how each project for which a waiver is
 5 granted is conforming with the cost-neutrality
 6 requirements of subsection (d)(4); and

7 (F) to the extent the administering Sec-
 8 retary deems appropriate, recommendations for
 9 modification of programs based on outcomes of
 10 the projects.

11 **Subtitle G—Repeal of Continued** 12 **Dumping and Subsidy Offset**

13 **SEC. 8701. REPEAL OF CONTINUED DUMPING AND SUBSIDY** 14 **OFFSET.**

15 (a) REPEAL.—Section 754 of the Tariff Act of 1930
 16 (19 U.S.C. 1675c), and the item relating to section 754
 17 in the table of contents for title VII of that Act, are re-
 18 pealed.

19 (b) EXISTING ACCOUNTS.—All amounts remaining,
 20 upon the enactment of this title, in any special account
 21 established under section 754(e)(1) of the Tariff Act of
 22 1930 (as in effect on the day before the date of the enact-
 23 ment of this title) shall be deposited in the general fund
 24 of the Treasury.

1 **Subtitle H—Effective Date**

2 **SEC. 8801. EFFECTIVE DATE.**

3 (a) IN GENERAL.—Except as otherwise provided in
4 this title, this title and the amendments made by this title
5 shall be effective as of October 1, 2005.

6 (b) EXCEPTION.—In the case of a State plan under
7 title IV of the Social Security Act which the Secretary de-
8 termines requires State legislation in order for the plan
9 to meet the additional requirements imposed by the
10 amendments made by this title, the effective date of the
11 amendments imposing the additional requirements shall be
12 3 months after the first day of the first calendar quarter
13 beginning after the close of the first regular session of the
14 State legislature that begins after the date of the enact-
15 ment of this Act. For purposes of the preceding sentence,
16 in the case of a State that has a 2-year legislative session,
17 each year of the session shall be considered to be a sepa-
18 rate regular session of the State legislature.

Union Calendar No. 151

109TH CONGRESS
1ST Session

H. R. 4241

[Report No. 109-276]

A BILL

To provide for reconciliation pursuant to section 201(a) of the concurrent resolution on the budget for fiscal year 2006.

NOVEMBER 7, 2005

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed